

Attachment B: The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III). Ecology has incorporated changes requested by Island County in a letter dated August 30, 2013 after the conclusion of Ecology’s public comment period on the locally adopted SMP.

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [<u>underline</u> -additions; strikethrough -deletions]	ECOLOGY - DISCUSSION/RATIONALE
1.	Ch. III Shoreline Environment Designations	Natural designation, Management Policies	4. The following new uses should not be allowed in the Natural environment designation: commercial uses; industrial uses; <u>aquaculture</u> ; and non-water-oriented recreation.	This change is required for internal consistency with Table 1, Shoreline Use Classification Table, which prohibits aquaculture in Natural environment designations.
2.	Ch. III Shoreline Environment Designations	Aquatic designation, B. Criteria for Designation	1. All saltwater areas waterward of the ordinary high water mark, including estuarine channels and coastal lagoons, other than those designated High Intensity or otherwise mapped to match the adjacent upland designation.	As currently written the designation policy would rely on incorrect maps to determine the separation between upland designations and the aquatic environment. This change is consistent with, and implements, another change which is classified as required by Ecology (change 12) and addresses a fundamental conflict between the regulations and the policies. Specifically, ICC 17.05A.060.D does not contain the reference to areas “otherwise mapped to match the upland designation.”
3.	Ch.V Shoreline General Policies	B. Environmental Protection and Critical Areas	5. Shorelines that support unique or high value natural resource systems, critical saltwater habitat, associated wetlands, or areas of particular value for scientific research should be considered for the highest level of protection in order to remain in an unaltered condition. <u>In general, these areas should remain in a natural undeveloped condition.</u>	County staff recommended a clarification to the last part of Policy B.5. The locally adopted draft implied the purpose of protecting unique or high value natural resource will always be to leave the system “unaltered.” However, the county’s SMP regulations authorize alterations of some high value systems for legitimate reasons consistent with the policy of the SMA (RCW 90.58.020). For example, scientific research or public access could involve some legitimate degree of alteration of high value systems. In addition, per WAC 172-26-221(2)(c)(iii)(A), critical saltwater habitats include “subsistence, commercial and recreational shellfish beds” and by definition already represent an altered condition by virtue of their use for shellfish harvest.
4.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture Policy	2. Aquaculture uses and developments should: a. Protect and improve water quality; b. Minimize damage to important shoreline habitats and resources such as eel grass beds; c. Minimize interference with navigation and normal public use of surface waters; and, d. Minimize the potential for cumulative adverse impacts, such as those resulting from in water structures/apparatus/equipment, land based facilities, toxic loading, and substrate disturbance/modification (including rate, frequency, and spatial extent).	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2). Ecology concurs with the county’s proposed deletion. The issues addressed in this policy are addressed with more specificity and closer alignment with Ecology WAC 173-26-241(3)(b) in the regulations.

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5.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture Policy	<u>2. The County should support aquaculture uses and developments which result in long-term over short-term benefit, protect the resources and ecology of the shoreline and are consistent with control of pollution and prevention of damage to the environment.</u>	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2). Ecology concurs with the county's recommended policy, which is consistent with the policy of the Shoreline Management Act, RCW 90.58.020 and the SMP Guidelines, WAC 173-26-241(3)(b)(A).
6.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture Policy	3. Experimental aquaculture development should be limited in scale; should be approved for a limited period of time; and should be required to demonstrate that they will not result in a net loss of ecological functions. "Experimental aquaculture" means an aquaculture project that uses methods or technologies which are unprecedented or unproven.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2). Ecology concurs with the county's request to delete this policy, consistent with deletion of ICC 17.05A.100.B.22.
7.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture Policy	4. Aquaculture that poses a significant threat to the marine environment by degrading water quality, sea floor health, potentially acting as disease or parasite sources, or which, if the farmed organisms escape, may successfully reproduce and compete with native species will not be permitted.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2). Ecology concurs with the county's proposed deletion. Ecology acknowledges the county proposed a variation on this regulation in the August 30, 2012 letter. However, the original policy and the proposed alternative are both contrary to SMA policies of RCW 90.58.020, WAC 173-26-241(3)(b)(i)(A), Island County SMP Ch.VI, Policy B. 1; and ICC 17.05A.100.B.1. All shoreline uses have the <i>potential</i> to degrade aquatic resources. This policy establishes direction to prohibit aquaculture based on <i>potential</i> impacts and perceived threats. The SMP regulations allow aquaculture proposals to go through a permit process that requires application of the full mitigation sequence, which includes avoidance but also allows compensatory mitigation for unavoidable impacts based on applicable scientific information.
8.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture policy	5. 3. Aquaculture districts were established in Island County in the 1980's for the purpose of managing aquacultural use and resources; however, in practice the districts have not facilitated better resource management. Therefore, the aquaculture districts should be are abolished and aquaculture should shall be managed in the Aquatic shoreline designation consistent with policies, regulations and performance standards established in this Shoreline Master Program, and when and where best available science can support no negative impacts will occur.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2). Ecology concurs with the county's request to remove the phrase "best available science (BAS)." BAS is a term of art under the Growth Management Act (RCW 36.70.A.172) that does not apply to Ecology's approval of SMPs (see RCW 36.70A.480(3)(e)). It is confusing to include the term here, as it seems to suggest an additional standard in addition to the specific regulations and performance standards in the SMP. The Island County SMP is based on the most current and appropriate science at

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				<p>the time it is adopted. The regulations require use of applicable scientific information during individual project review (ICC 17.05A.110.B.2).</p> <p>In addition, Ecology amended the second sentence of this policy to clarify that aquaculture districts are abolished when the updated SMP is effective.</p>
9.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture policy	<p>6. Aquaculture use and development should locate in areas where biophysical conditions, such as tidal currents, water temperature and depth, will prevent adverse environmental impacts.</p> <p><u>4. In considering the suitability of sites for proposed aquaculture operations, factors such as tidal currents, dissolved oxygen, water temperature and depth shall be evaluated in addition to the presence of critical saltwater habitat.</u></p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 1 of 2).</p> <p>Ecology concurs with the county's proposed change. The final language includes minor revisions proposed by county staff. The revised policy highlights elements to be considered in evaluating the suitability of a given location, a necessary component of the mitigation sequencing process, required by the SMP provisions of ICC 17.05A.090 (shoreline use and development regulations).</p>
10.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture policy	<p>8. The Countywide density of finfish net pen aquaculture and raft culture operations should be limited as necessary to minimize cumulative environmental impacts.</p> <p><u>6. The County shall adopt a prohibition on new commercial fin fish net pen aquaculture operations to provide time for updated guidance addressing the protection of ecological functions and use conflicts. The county will revisit policies and regulations regarding marine finfish net pens to address new guidance during scheduled periodic reviews of this program under RCW 90.58.080.</u></p>	<p>Island County requested a change to locally adopted Policy 8 that addressed siting of net pens (August 30, 2013 letter to Ecology, Attachment E, page 2 of 2).</p> <p>Subsequent to that request, Ecology and Island County have come to an agreement on a different approach to addressing commercial fin fish net pens as part of this comprehensive SMP update. Policy 6 states the county will adopt a prohibition on finfish net pens in marine waters. This decision will be revisited during the county's statutorily scheduled periodic review of the SMP. This will provide time for updated guidance from state agencies. Ecology concurs with this approach based on the county's determination that siting of commercial marine finfish net pens is not reasonably foreseeable, based on the absence of public comments during either the local or state comment period.</p>
11.	Chapter VI, Policies for Shoreline Use B. Aquaculture	Aquaculture policy	<p>10. High pressure water blast mining of offshore and intertidal species shall be prohibited.</p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment E, page 2 of 2).</p> <p>Ecology concurs, this policy is inappropriate within the aquaculture section. Mining is regulated as a separate use activity per G. Industry (7).</p>
12.	17.05A.060 (C)	Shoreline Environments Designations	<p>C. Whenever there is a conflict between the descriptions of Shoreline Environment Designations and the mapped boundaries of the Shoreline Environment Designations, the mapped boundaries shall control. <u>county will rely on criteria contained in SMP chapter III (Shoreline Environment Designations), RCW 90.58.030(2), and chapter 173-22 WAC pertaining to</u></p>	<p>Change requested by Island County staff, for consistency with WAC 173-26-211 (2) (b): <i>The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2).</i></p>

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			<u>determinations of shorelands, as amended, rather than the incorrect or outdated map.</u>																												
13.	17.05A.070 Definitions	“Aquaculture” definitions	<p>Aquaculture, Commercial: Commercial Aquaculture is the cultivation <u>or farming of fish, shellfish or other aquatic plants and animals for sale.</u></p> <p>Aquaculture, Non-commercial: The cultivation <u>or farming of fish, shellfish or other aquatic plants and animals for personal consumption, research, or restoration or enhancement of native species.</u></p>	The additional language is required for consistency with WAC 173-26-020(6) and the county’s definition of “aquaculture.”																											
14.	17.05A.070 Definitions	“Primary Appurtenance” and “Primary Structure” definitions	<p>Primary Structure: The structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure. <u>See “Primary Appurtenance.”</u></p> <p><u>For purposes of interpreting ICC 17.05A.110, the phrase “primary structure or appurtenance” shall mean the primary structure and those appurtenances which cannot be relocated because they are either (a) structurally attached to the primary structure (such as garages and decks) or, (b) no other suitable location exists for their relocation and the primary structure would become unusable if the appurtenance were damaged or destroyed.</u></p>	<p>Change requested by Island County staff, for consistency with WAC 173-26-231-3(a)(ii) which requires SMPs to set standards for shoreline alterations needed “to protect single-family residences <i>and principal appurtenant structures</i> in danger from active shoreline erosion.”</p> <p>The stabilization section (17.05A.110.A) includes standards that are consistent with Ecology regulations, and consistently refers to “primary structures and appurtenances. [“Primary” is analogous with “principal” as used in WAC 173-26-231-3(a)(ii).]</p> <p>This minor amendment to the definition of primary structure clarifies how “Primary Appurtenance” will be interpreted.</p>																											
15.	17.05A.070 Definitions	“Should”	“Should” means that the particular action is preferred <u>required</u> unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.	Amended for consistency with WAC 173-26-020(35).																											
16.	17.05A.070 Definitions	“Wetland Identification and delineation”	<u>Wetland Identification and Delineation: The process of evaluating vegetation, soils and hydrology to determine whether a wetland is present, and if so determining the wetland-upland boundary. Wetlands must be identified and delineated using the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0, 2010 or as revised).</u>	<p>Wetland delineation definition needed for consistency with WAC 173-22(035).</p> <p>There is no equivalent definition in the county’s Critical Areas Ordinance (CAO 17.02A.30).</p>																											
17.	17.05A.090 Shoreline Use Classification Table 1	Shoreline Use Classification Table	<table border="1"> <thead> <tr> <th rowspan="2">Shoreline uses</th> <th colspan="6">Shoreline Designations</th> </tr> <tr> <th>Aquatic</th> <th>Natural</th> <th>R/C</th> <th>U/C</th> <th>Res</th> <th>H-I</th> </tr> </thead> <tbody> <tr> <td>Aquaculture, in-water</td> <td>C*</td> <td>NA</td> <td>NA</td> <td>NA</td> <td>Na</td> <td>C</td> </tr> <tr> <td><u>Aquaculture, Noncommercial</u></td> <td><u>P</u></td> <td><u>P</u></td> <td><u>P</u></td> <td><u>P</u></td> <td><u>P</u></td> <td><u>P</u></td> </tr> </tbody> </table> <p>* See ICC 17.05.100B for marine finfish netpens</p>	Shoreline uses	Shoreline Designations						Aquatic	Natural	R/C	U/C	Res	H-I	Aquaculture, in-water	C*	NA	NA	NA	Na	C	<u>Aquaculture, Noncommercial</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<p>An additional row to the use table clarifies that non-commercial aquaculture (for personal consumption, research, or restoration or enhancement of native species) is a permitted use in all environments.</p> <p>This change was based on consultation with county staff. The county did not intend to require a CUP for non-commercial aquaculture. It appears the inclusion of this row was an oversight. This change is required for internal consistency and consistency with WAC 173-26-191(2)(a)(ii)(A) which requires that regulations are</p>
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				<p>sufficient in scope and detail to ensure the implementation of the SMA, SMP guidelines policies, and local SMP policies.</p> <p>In addition, an asterisk is added to the Column for in-water aquaculture to reference regulations that create a temporary prohibition on allowances for marine finfish net pens.</p>
18.	17.05A.090 Shoreline Use Classification Table 1	Pier & Dock permitting clarification for Canal Communities	<p>Add new footnote 13 to private piers, docks and floats in Shoreline Residential Environment</p> <p><u>Footnote 13. New and replacement docks, piers, and floats located within a designated canal community that are consistent with an approved canal community master plan may be reviewed as a permitted use, provided that the approved canal community master plan contains applicable standards that are consistent with ICC 17.05A.110.B.23.</u></p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment A, Page 2 of 2).</p> <p>Ecology concurs with the suggested additional footnote to the Use Table to clarify the procedures for permitting docks in designated canal communities that have an approved "Canal Community Master Plan." This change was made to eliminate a conflict between the use table and ICC 17.05A.110.B.23. The use regulations applicable to docks (ICC 17.05A.110.8.23) state that docks, piers, and floats that are consistent with an approved Canal Community Master Plan may be authorized as "permitted uses."</p>
19.	17.05A.090 C.14.(a) (viii)	Critical Areas reference	<p>(viii) Island County Agriculture and Critical Areas Ordinances adopted under C-150-05 and C-22-06.</p>	<p>Adopting Ordinance C-150-05 by reference conflicts with RCW 90.58.065 and WAC 173-26-241(3)(a)(ii). Ordinance C-150-05 establishes a countywide program of best management practices to regulate existing and ongoing agricultural uses. The SMA precludes local shoreline master programs from including provisions that limit or modify existing and ongoing agricultural activities within shoreline jurisdiction.</p> <p>In addition, it is not necessary to adopt Ordinance C-22-06 by reference. Ordinances C -22-06 establishes the county's surface water quality monitoring program. The SMP at ICC 17.05.090.C.14(a)(viii) already incorporates by reference ICC 17.02A.080 which describes the county's monitoring and adaptive management program.</p>
20.	17.05A.090.F. Common Line Setback Reduction	Common Line Setback and shoreline buffer Reduction	<p>Single-family residential development may be allowed in the shoreline setback, or <u>a marine or lake</u> buffer where there are legally established residences adjacent to and within 100 feet of the project site that are waterward or partially waterward of the required shoreline buffer or building setback. In such cases, a single-family residential structure may be constructed <u>within the-marine or lake</u> buffer or <u>within a</u> building setback provided the proposed structure is set back from the OHWM to a common line drawn between the water-side comers of the facades of each adjacent</p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment B, Page 1 of 2).</p> <p>Ecology concurs with the change, which addresses public comments noting that the provisions of ICC 17.05A.090.F would allow homes to be moved closer to a bluff or geologically hazardous area. The "common line" setback provisions included in the SMP are intended to allow for reduced shoreline setbacks and buffers but not steep slope buffers.</p>

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			<p>residential structure that are nearest to the proposed structure. <u>Common line setback and shoreline buffer reduction procedures described in this section shall not be used to reduce a steep slope buffer.</u></p>	
21.	17.05A.090. M.1 Public Access	Public Access impacts from private development encroachment	<p>1. <u>Visual access:</u> Where feasible, new development, uses, and activities shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical access to public shorelines or visual access (including existing views) of the shoreline from public properties or <u>a substantial numbers of residences. Where it can be demonstrated that it is not feasible to avoid such impacts, every effort shall be made to minimize impacts to existing shoreline views.</u></p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment C, Page 1 of 2).</p> <p>Ecology concurs with the change to address public comments regarding impacts to existing views.</p>
22.	17.05A.090. M.3 Public Access	Public access	<p>3. <u>Physical access:</u> Existing physical public access shall not be eliminated, blocked, or interfered with <u>except in conjunction with a public project which serves a valid public purpose, and then only unless an when the applicant shows that there is no feasible alternative and replaces the public access with public access of comparable functions and value at another location in the same vicinity.</u></p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment C, Page 1 of 2).</p> <p>Ecology concurs with the change, to address public comments regarding elimination of existing public access. The change includes minor clarifications provided by county staff to Ecology after submission of the August 30, 2013 letter.</p>
23.	17.05A.100 (B) Aquaculture	Aquaculture permitting	<p>2. All commercial aquaculture operations may require a shoreline conditional use permit that which outlines uses and monitoring requirements based on site specific conditions and scientific indicators anticipated impacts of the given proposed operation.</p> <p>Permits will be issued for 5 to 10 year periods with renewals permitted where no significant adverse impacts or net loss of ecological functions have occurred.</p> <p><u>When a shoreline substantial development or conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and planting or stocking of the facility or farm. Authorization to accomplish initial siting, construction and planting shall be valid for a period of five (5) years with a possible extension per ICC 17.05A.130.C. After an aquaculture use or development is established under a shoreline permit, continued operation of the use or development, including, but not limited to, maintenance, harvest, replanting, restocking or changing the culture technique shall not require a new or renewed permit unless otherwise provided in the conditions of approval or if required pursuant to permit revision criteria in WAC 173-27-100 or this Program. Changing the species cultivated shall be subject to applicable standards of this Program.</u></p>	<p>Some changes requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 2 of 4). Ecology concurs with proposed changes and has added further clarifications.</p> <p>First sentence: Island County requested the following changes: “All aquaculture operations may require a shoreline conditional use permit <u>that which</u> outlines uses and monitoring requirements based on site specific conditions and scientific indicators of the given <u>proposed</u> operation.”</p> <p>Ecology concurs with removal of the word “may,” which left open the question of whether a given operation would actually require a CUP. This ambiguity is inconsistent with WAC 173-26-191(2)(a)(ii)(A) which requires that regulations are sufficient in scope and detail to ensure the implementation of the SMA, SMP guidelines policies, and local SMP policies.</p> <p>In addition, the county affirmed that the requirement for a CUP was only intended to apply to commercial aquaculture, and not cultivation for personal consumption, research, or restoration and enhancement of native species. Finally, the statement that monitoring requirements must be based on “scientific indicators” of the proposed operation was ambiguous. Ecology’s change clarifies</p>

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				<p>that monitoring requirements should be based on “anticipated impacts” of the proposed operation.</p> <p>Second sentence: Island County’s August 30, 2013 letter also requested a change to clarify that CUPs would be issued for “up to a ten year period” rather than “for 5 to 10 years,” where “no adverse impacts or net loss of ecological functions have occurred as a result of the permitted aquaculture operation.”</p> <p>Implementing this regulation is problematic, even with the county’s proposed revision requested in the August 30, 2013 letter. The regulation would require the county administrator to set the initial term for every individual CUP without any criteria for determining the duration. The term could be any number of years to a maximum of ten. The administrator would also need to determine whether or not, or for how long, each subsequent renewal should be, without clear criteria for making these decisions.</p> <p>Ecology’s permitting rules at Chapter 173-27 WAC do not refer to renewals and therefore there are no statewide criteria for establishing timelines or any other procedural or substantive requirements. Requiring permit renewals without clear criteria for water-dependent aquaculture uses would be contrary to county Policy B.1; the policy of the state to plan for and foster preferred, water-dependent uses [RCW 90.58.020]; and Ecology’s guidelines for aquaculture [WAC 173-26-241(3)(b)(i)(A)].</p> <p>Language clarifying that permit renewals are not always necessary is required at a minimum for geoduck aquaculture, because once a farm is sited, SMPs may not require a new CUP for subsequent cycles of geoduck planting and harvest, per WAC 173-26-241(3)(b)(iv)(B).</p> <p>Ecology has provided an alternative to the county’s proposed requirement for a permit renewal for all aquaculture proposals based on similar language in other recently approved master programs.</p> <p>Ecology’s alternative regulation clarifies that authorization to conduct the initial siting, construction, and planting or stocking of facilities are valid for five years (with possible extensions), and stipulates that like all other authorized uses,</p>

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				<p>projects that follow the terms of their initial permit do need to be renewed, but are subject to permit <i>revision</i> criteria of WAC 173-27-100.</p> <p>Ecology acknowledges the county's interest is in having an opportunity to review permitted operations to ensure ecological functions are being protected. The monitoring requirements in 17.05A.100 (B)(2)(first sentence), together with the permit revision process, provide a mechanism for ongoing review.</p>
24.	17.05A.100 (B) Aquaculture	Aquaculture facilities impacts	<p>4. All aquacultural facilities and activities shall be located and designed to avoid adverse impacts on eelgrass or macroalgae. Operation of the aquaculture facility or activity will not likely result in a net loss of shoreline ecological functions.</p> <p><u>The location, design and operation of aquaculture facilities shall not significantly impact the aesthetic qualities of the shoreline, or result in adverse impacts to fish and wildlife habitat conservation areas as required by ICC 17.05A.090.C.13.</u></p>	<p>The following change to this regulation was requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 2 of 4): <u>"The location, design and operation of aquaculture facilities shall not result in adverse impacts to critical saltwater habitats."</u></p> <p>Ecology concurs with the intent of the proposed change, which is consistent with management policies for the aquatic environment in WAC 173-26-211(3)(c)(i)(E); and aquaculture provisions of WAC 173-26-241(3)(b)(i)(C).</p> <p>However, Ecology incorporated additional requirement from WAC 173-26-241(3)(b)(i)(C) to address aesthetic qualities of the shoreline.</p> <p>In addition, Ecology amended the reference from "critical saltwater habitats" to reference Island County's standards for "fish and wildlife habitat conservation areas." Critical saltwater habitats are a subset of fish and wildlife habitat conservation areas under ICC 17.05A.090.C.13, which includes relevant requirements for biological site assessments and Habitat Management Plans that are used to ensure location, design and operation of proposed facilities will not result in adverse impacts.</p>
25.	17.05A.100 (B) Aquaculture		<p>6. New aquatic species that are <u>have</u> not been previously cultivated in Washington State shall not be introduced into Island County waters without an approved shoreline conditional use permit and written approval from the Director of the Washington Department of Fish and Wildlife, and the Director of the Washington Department of Health.</p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 2 of 4).</p> <p>Ecology concurs with the county's proposed clarifying changes.</p>
26.	17.05A.100 (B) Aquaculture	Aquaculture facilities impacts	<p>7. Aquaculture in Penn Cove and Holmes Harbor will not be permitted unless the applicant can demonstrate that culture will not result in significant adverse environmental effects in these areas of special concern.</p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 2 of 4).</p> <p>Ecology concurs with the county's proposed deletion. Environmental impacts are addressed through other regulations, and it is unclear how proposals for Penn</p>

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27.	17.05A.100 (B) Aquaculture	Geoduck Aquaculture	<p>8. Commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading and shall not interfere with normal public use of surface waters or pose a threat to marine or nearshore habitat.</p>	<p>Cove and Holmes Harbor would be treated differently under this regulation.</p> <p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 2 of 4).</p> <p>Ecology concurs with the county's proposed deletion of this regulation, which included a requirement that proposed geoduck operations "shall not interfere with normal public uses of surface waters." Ecology's regulations do not ban such proposals, but do require a Substantial Development Permit (see WAC 173-26-241(3)(b)(iii). Note that the first part of this regulation is direct from WAC 173-26-241(3)(b)(ii) and is integrated into regulation 7 below, along with the full suite of requirements for geoduck aquaculture from WAC 173-26-241(3)(b).</p>
28.	17.05A.100 (B) Aquaculture	Geoduck aquaculture Conditional Use Permits	<p>9-7. Conditional use permits are required for any new commercial aquaculture operations including conversions from existing non-geoduck aquaculture to geoduck aquaculture.</p> <p><u>The following standards and requirements shall apply to commercial geoduck aquaculture.</u></p> <p><u>(a) All subsequent cycles of planting and harvesting of commercial geoduck shall not require a new conditional use permit.</u></p> <p><u>(b) A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within county shoreline jurisdiction.</u></p> <p><u>(c) Commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.</u></p> <p><u>(d) Unless already addressed in other applications, applications for new commercial geoduck aquaculture shall contain:</u></p> <p><u>(i) A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above.</u></p> <p><u>(ii) A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information</u></p>	<p>This regulation is consistent with WAC 173-26-241(3)(b)(iv)(A), which requires a CUP for new commercial geoduck aquaculture and provides the county the option whether or not to require a new CUP for conversions from existing non-geoduck aquaculture to geoduck aquaculture.</p> <p>Ecology is requiring the addition of requirements from the geoduck provisions of WAC 173-26-241(3)(b) into this regulation. The changes are either direct from the WAC, or modified slightly to be internally consistency with the Island County SMP. Below are citations to the source of each additional provision, with a description of modifications from the WAC:</p> <p>(a) is from WAC 173-26-241(3)(b)(iv)(A).</p> <p>(b) is from WAC 173-26-241(3)(b)(iv)(D).</p> <p>(c) is from WAC 173-26-241(3)(b)(ii).</p> <p>(d) lists the required permit application requirements found in WAC 173-26-241(3)(b)(iv)(F). This regulation also incorporates direction from WAC 173-26-241(3)(b)(iv)(E) to minimize redundancy with other permit applications requirements by noting that applications only need to address the required elements if not already addressed in other applications.</p> <p>(e) is from WAC 173-26-241(3)(b)(iv)(G), modified to cite the location within the county SMP where the mitigation sequence is contained.</p>

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			<p><u>mentioned above.</u></p> <p><u>(iii) Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in 17.05A.090.C.7.</u></p> <p><u>(iv) Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.</u></p> <p><u>(e) Island County will provide public notice to all property owners within three hundred feet of proposed commercial geoduck project boundaries. The county will also provide notice to tribes with Usual and Accustomed fishing rights to the area.</u></p> <p><u>(f) Conditional use permits for geoduck aquaculture shall include allowance for work during low tides at night or on weekends but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.</u></p> <p><u>(g) Conditional use permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit limits and conditions and to support cumulative impact analysis. The County shall consider the reporting and monitoring conditions of other permitting agencies before adding additional conditions to a permit.</u></p> <p><u>(h) Conditional use permits shall be reviewed using the best scientific and technical information available. This requirement may be met through review and approval of information provided under federal and state agency permit reviews.</u></p> <p><u>(i) Applicants shall apply best management practices to accomplish the intent of permit limits and conditions.</u></p> <p><u>(j) To avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, permits shall consider the following and place conditions where applicable and not redundant with other agency permit conditions:</u></p>	<p>(f) is from WAC 173-26-241(3)(b)(iv)(H), with minor editorial adjustments for clarity.</p> <p>(g) is from WAC 173-26-241(3)(b)(iv)(I), with additional clarification that the county may rely on monitoring required by other permit agencies, for consistency with WAC 173-26-241(3)(b)(iv)(E).</p> <p>(h) is from WAC 173-26-241(3)(b)(iv)(J) with additional clarification that the county may rely on information provided under other agency reviews, for consistency with WAC 173-26-241(3)(b)(iv)(E).</p> <p>(i) is from WAC 173-26-241(3)(b)(iv)(K).</p> <p>(j) is from WAC 173-26-241(3)(b)(iv)(L), with additional clarification that conditions should not be redundant with other agency permit conditions, for consistency with WAC 173-26-241(3)(b)(iv)(E).</p>

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			<p><u>(i) The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.</u></p> <p><u>(ii) Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.</u></p> <p><u>(ii) Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures shall be identified in the baseline ecological survey conducted for the site.</u></p> <p><u>(iv) Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.</u></p> <p><u>(v) Installation of property corner markers that are visible at low tide during planting and harvesting.</u></p> <p><u>(vi) Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.</u></p> <p><u>(vii) Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed as soon as they are no longer needed for predator exclusion.</u></p> <p><u>(viii) Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.</u></p> <p><u>(ix) Number of barges or vessels that can be moored or beached at the site as well as duration limits.</u></p> <p><u>(x) Public rights to navigation over the surface of the water.</u></p> <p><u>(xi) Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.</u></p> <p><u>(xii) Where the site contains existing public access to publicly owned lands, consider recommendations from the Washington Department of Natural Resources or other landowning agencies regarding protection of the existing public access.</u></p>	
29.	17.05A.100 (B) Aquaculture	Aquatic invasive species	<p>10. 8. Proposals for aquaculture facilities uses shall be operated to avoid the demonstrate that they will not spread of disease to native marine or aquatic life, or establish new nonnative species which cause significant ecological impacts.</p> <p><u>All aquaculture operations must comply with WDFW's transfer and import</u></p>	<p>Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 3 of 4).</p> <p>Ecology concurs with the county's proposed clarifications. The County may consider the additional sentence as a reminder to ensure consistency with state regulations.</p>

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			<u>policies and requirements, including acquiring state certified seed, shell and eggs from a registered source.</u>	
30.	17.05A.100 (B) Aquaculture	Aquaculture facilities operations	13. <u>11.</u> Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable government waste disposal standards, including but not limited to, the Federal Clean Water Act, Section 401, and Chapter 90.48 RCW, w Water Pollution Control. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 3 of 4). This change corrects a scrivener's error.
31.	17.05A.100 (B) Aquaculture	Aquaculture facilities operations	14. <u>12.</u> No processing of any aquacultural product, except for the sorting or culling of the cultured organism <u>and the washing or removal of surface organisms</u> shall occur in or over the water after harvest, unless specifically approved by permit. All other processing shall be located on land and shall be governed in addition by the provisions of Chapter 17.03 ICC.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 3 of 4). Ecology concurs with the county's proposed clarification.
32.	17.05A.100 (B) Aquaculture	Finfish facilities	<p>16. Finfish facilities shall not occupy more than two (2) surface acres of water area and shall be placed in designated areas and distances as outlined in the Zoning Code.</p> <p>17. The cultivation of non-native finfish (including Atlantic salmon) shall be prohibited in marine waters.</p> <p>18. Open finfish facilities in marine waters are not permitted.</p> <p>25. Finfish facilities shall not be located closer than 12 statute miles from the mouth of the following rivers containing significant anadromous fish runs: Skagit River; Stillaguamish River, and Snohomish River.</p> <p>26. Finfish facilities shall not impact native juvenile native salmonid species or species of local importance.</p> <p>28. For finfish facilities, fish mortalities shall not be disposed of at any Island County solid waste disposal facility without approval of the Health Director of Island County.</p> <p><u>Commercial finfish net pen aquaculture is prohibited in marine waters.</u></p>	Restrictions specific to finfish facilities are being replaced with a simple prohibition. This change is consistent with Island County's approach to adopting a prohibition on addressing finfish net pens in marine waters during the current comprehensive update cycle, as described above under Policy 6.

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			In the Use Table, add an asterisk under the Aquaculture row that cites to this regulation.	
33.	17.05A.100 (B) Aquaculture	Mitigation sequence	20. 15. Aquaculture proposals that hydraulically, mechanically, or by commercial digging (except traditional low impact hand implement digging), displace or disturb bottom sediments through dredging, trenching, or excavation shall be designed to minimize harm to aquatic habitat <u>not be permitted unless consistent with the environmental, critical area, and critical saltwater habitat protection standards of the SMP.</u>	Clarifications provided at the recommendation of county staff. Mitigation sequencing steps are already required by the SMP provisions of ICC 17.05A.090 (shoreline use and development regulations). The proposed revisions cross reference the applicable environmental protection standards of the SMP (which contain mitigation sequencing steps).
34.	17.05A.100 (B) Aquaculture	Benthic organisms and habitat	21. Aquaculture practices that would cause a significant long-term decline in unique or significant populations of benthic organisms, or result in the long-term degradation of the benthic habitat shall not be allowed in Island County.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 4 of 4). Ecology concurs with the county's request to delete this regulation. We note that County regulations require all aquaculture to avoid or minimize impacts per the mitigation sequence outlined in WAC 173-26-211(2)(e). <i>[Note: The county's August 30, 2013 letter to Ecology, Attachment D, page 4 of 4, inadvertently included a Regulation 21 shown in strikethrough format. That regulation was not included in the locally adopted SMP, was not subject to Ecology review, and was not subject to review during the state public comment period.]</i>
35.	17.05A.100 (B) Aquaculture	Experimental aquaculture	22. Experimental aquaculture projects may be allowed as a shoreline conditional use. Monitoring of specific environmental conditions may be required at the Applicant's expense prior to or during operation as a condition of approval, to provide proof of compliance with the permit.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment D, page 4 of 4). Ecology concurs with the county's request to delete this regulation, consistent with deletion of Policy 3, above.
36.	17.05A.110A.1 and 2	Structural shoreline stabilization	A. Shoreline Stabilization 1. h) Structural Shoreline stabilization (ICC 17.05A.110.A.1.b.vi through xi) is prohibited for the purposes of leveling or extending property or creating or preserving residential lawns, yards, or landscaping. i) Construction of structural shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in 17.05A.110.A.3.d.	Clarification provided at the recommendation of county staff. The clarification removes the modifier "structural" where it precedes "shoreline stabilization." This change will ensure regulations will be implemented consistent with the requirement that new stabilization demonstrate need as outlined in WAC 173-26-231(3)(a)(iii)(B).

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			<p>2. Existing Structural Shoreline Stabilization</p> <p>a) Existing structural shoreline stabilization, other than structures located in Canal Communities,...</p> <p>d) In a Canal Community, existing bulkheads (for lots along the canals only) may be replaced with structural shoreline stabilization provided they meet the following:</p>	
37.	17.05A.110 A.3.	New structural shoreline stabilization	<p>3. New or Expanded Structural Shoreline Stabilization</p> <p>a) Structural shoreline stabilization shall be prohibited in or adjacent to lakes.</p> <p>b) Structural shoreline stabilization shall not be permitted on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shoreforms; except when demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing primary structures and appurtenances and mitigation consistent with ICC 17.05A.090.C.7 has been accomplished.</p> <p>c) New structural shoreline stabilization may be permitted and existing structural shoreline stabilization may be expanded only when at least one of the following apply:</p> <p>(vi) On a lot developed with a single family residence in <u>designated canal communities</u>, where the adjacent lots on both sides have a legally established bulkhead, structural shoreline stabilization may be permitted, provided:</p> <p>(1) The horizontal distance between existing bulkheads does not exceed one-hundred twenty (120) feet;</p> <p>(2) The proposed stabilization structure would be located landward of the OHWM;</p> <p>(3) The proposed shoreline stabilization would link with the adjacent bulkheads; and</p> <p>(4) The proposed shoreline stabilization would not adversely affect known forage fish habitat.</p> <p>d) In addition to meeting the provisions of ICC 17.05A.110.A.1, proposals for new or expanded structural shoreline stabilization allowed under ICC</p>	<p>Clarification provided at the recommendation of county staff. Changes to regulation 3 to remove the qualifier “structural” where it precedes “shoreline stabilization” are required for consistency with the “demonstration of need” threshold outlined in the WAC 173-26-231(3)(a)(iii)(B).</p> <p>The change to Regulation A.3.c addresses “infill” bulkheads, i.e., where an existing residence is surrounded on both sides by parcels with bulkheads. If a lot is already developed with a single family residence and erosion is occurring on the subject “infill” parcel, the homeowner would be able to go through the normal steps requiring demonstration of need for a new bulkhead described in 17.05A.110A(3)(i) – (v).</p> <p>However, the criteria in 17.05A.110A(3)(vi) are appropriate for the special circumstances unique to designated canal communities. Canal communities are artificially created shorelines, and stabilization is normally required to make use of the lots. The absence of a bulkhead in the narrowly defined circumstances is a reasonable demonstration of need in these unique and limited circumstances where adjacent lots have legally established bulkheads, the bulkhead would be sited landward of the OHWM, the bulkhead connects to adjacent bulkheads, and the structure would not adversely affect forage fish habitat.</p>

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			<p>17.05A.110.A.3.e shall demonstrate all of the following before a permit can be issued:,,,</p> <p>e)The Shoreline Administrator shall require applicants for new or expanded structural shoreline stabilization to provide credible evidence, through preparation of a geotechnical analysis by a qualified professional that the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves.</p> <p>g) Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure or appurtenance shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. In order for structural shoreline stabilization to be authorized, the geotechnical report must conclude that that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or that waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. All geotechnical reports shall also identify any potential impacts to downstream or downdrift structures.</p>	
38.	17.05A.110 A.3.c. New or expanded shoreline stabilization	New structural shoreline stabilization	<p>c) New structural shoreline stabilization may be permitted and existing structural shoreline stabilization may be expanded only when at least one of the following apply:</p> <p>(vi) On a lot developed with a single family residence <u>in designated canal communities</u>, where the adjacent lots on both sides have a legally established bulkhead, structural shoreline stabilization may be permitted, provided:</p> <p>(1) The horizontal distance between existing bulkheads does not exceed one-hundred twenty (120) feet;</p> <p>(2) The proposed stabilization structure would be located landward of the OHWM;</p> <p>(3) The proposed shoreline stabilization would link with the adjacent bulkheads; and</p> <p>(4) The proposed shoreline stabilization would not adversely affect known</p>	<p>This change is required for consistency with the “demonstration of need” threshold outlined in the WAC 173-26-231(3)(a)(iii)(B). This provision is intended to address “infill” bulkheads, i.e., where an existing residence is surrounded on both sides by parcels with bulkheads. If a lot is already developed with a single family residence and erosion is occurring on the subject “infill” parcel, the homeowner would be able to go through the normal steps requiring demonstration of need for a new bulkhead described in 17.05A.110A(3)(i) – (v).</p> <p>However, the criteria in 17.05A.110A(3)(vi) are appropriate for the special circumstances unique to designated canal communities. Canal communities are artificially created shorelines, and stabilization is normally required to make use of the lots. The absence of a bulkhead in the narrowly defined circumstances is a reasonable demonstration of need in these unique and limited circumstances</p>

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			forage fish habitat.	where adjacent lots have legally established bulkheads, the bulkhead would be sited landward of the OHWM, the bulkhead connects to adjacent bulkheads, and the structure would not adversely affect forage fish habitat.
39.	17.05A.110A. 4.Applications for Stabilization	New structural shoreline stabilization	<p>e) In order for a proposed bulkhead to qualify for the RCW 90.58.030(3)(e)(ii) exemption for bulkheads associated with a legally established single-family residence and to ensure that such bulkheads will be consistent with the SMP as required by RCW 90.58.140(1), the Administrator shall review the proposed design as it relates to local physical conditions and the Island County SMP and must find that:</p> <p>(i) Erosion from waves or currents is expected to cause damage to a legally established residence or legally established accessory structures <u>primary structure</u> located less than 100 feet from the OHWM within three years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed;</p>	Change requested by Island County staff. The change to “primary structure” improves consistency with WAC 173-26-231(3)(iii)(B)(I). The change also makes this regulation consistent with the change above to the SMP definition for Primary Appurtenance” and “Primary Structure” (ICC 17.05A.070).
40.	17.05A.110. B. Moorage Facilities	Docks, Piers and Floats	9. New piers, docks, and floats on marine waters shall have a maximum width of four feet and a maximum walkway width of four feet. Walkways Overwater surfaces shall be grated <u>constructed of unobstructed grading</u> to provide at least a forty-five <u>fifty</u> percent (45 <u>50</u> %) open surface area.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment F, Page 1 of 1). Ecology concurs with the change, which is consistent with Department of Fish and Wildlife requirements.
41.	Attachment G: Shoreline Environment maps	Shoreline Environment designation change for Camano Island State Park	Change developed part of Camano Island State Park from Natural to Rural Conservancy Environment. Park is located just NW of Elger Bay on Camano Island.	Change requested by Island County (August 30, 2013 letter to Ecology, Attachment G, Page 1 of 1) to amend Camano Island State Park shoreline from "Natural" to “Conservancy” Shoreline Environment. Ecology concurs with the proposed map correction. As noted by the Washington State Parks and Recreation Commission in public comments, much of Camano Island State Park is highly developed and used for active recreation, and therefore inconsistent with the designation criteria for the Natural Environment.