

**Geoduck Clams**  
**ARCADIA POINT SEAFOOD**  
**On Totten Inlet, Puget Sound**

November 23, 2010

Ms. Cedar Bouta  
Washington State Department of Ecology  
Shorelands and Environmental Assistance Program  
PO Box 47600  
Olympia, WA 98504-7600

Dear Ms. Bouta:

Thank you for the opportunity to comment on the Department of Ecology's proposed rule changes to WAC 173-26, specifically regarding shellfish aquaculture.

We provide the following background to set context for our specific comments. Arcadia Point Seafood is a small, family owned, shellfish farming business. We have been in business since 2000, growing geoduck clams since 2003. We lease tidelands from private parties and we were a "successful offerer" for the Department of Natural Resources' geoduck lease program that currently is on-hold. We have four full-time, salaried, employees to whom we pay a living wage. We provide benefits in the form of annual leave, sick leave, and medical/dental coverage. For peak planting and harvesting times, we hire temporary workers to whom we pay an hourly wage well above minimum wage (our goal is to pay at least 40% higher than minimum wage).

By training, Steve is a fisheries biologist (finfish/salmonid specialist) and Vicki has a doctorate in measurement/statistics (social sciences) with 36 years in state government, some of that in regulatory agencies. We came to the shellfish business with a clear conviction that what we do, and what our industry as a whole does, provides a net benefit to the state – environmentally, economically, and culturally.

Our comments focus on WAC 173-26-241(3)(b)(ii) – Additional provisions for commercial geoduck aquaculture, with special emphasis on the impact to our small business. Several other sections of the proposed rule also concern us. However, those concerns are addressed by comments from the Pacific Coast Shellfish Growers Association (PCSGA). We want to be clear that we strongly support the positions of PCSGA regarding the need to maintain original rule language on the following:

- Critical saltwater habitats [WAC 173-26-221(2)(c)(iii)]; specifically to ensure that "subsistence, commercial and recreational shellfish beds" are included and important water quality protections maintained, and
- Aquaculture preamble/policy language [WAC 173-26-241(3)(b)]; specifically to ensure that the messages of statewide interest, long-term benefits, water-dependency, and preferred uses are

maintained, as well as recognition that conflicts with navigation and other water-dependent uses need to be substantive in order to rise to a level of concern.<sup>1</sup>

As noted by Ecology<sup>2</sup>, the current 2004 guideline rule is the result of a negotiated settlement among interested parties—negotiated rule making is a much more rigorous process than the agency-public comment process currently underway. It took a lot for the various parties to agree on the existing language and in the absence of an extreme, compelling reason for change, deference should be given to that process and the language should remain as the negotiators intended it.

The matrix in Attachment A is used to present our specific comments regarding WAC 173-26-241(3)(b)(ii) – Additional provisions for commercial geoduck aquaculture. Overall, we are extremely concerned and disheartened by the fact that at this stage of the process, these provisions demonstrate a profound lack of understanding of both the business side of farming and the operational aspects of farming. If Ecology is trying to send a message that small business does not belong in the shellfish aquaculture business, these rules effectively deliver that message. In farming, the risks of loss due to unforeseen circumstances are already high; compounding them through unreasoned, non-science-based limits or prohibitions that do not reflect solid public policy is inexcusable.

With respect to the matrix:

- A shorthand method is used to convey the financial harm our business could incur if these rules were implemented as now written. We use a scale of 1 to 5, where 5 denotes the potential for extreme negative financial impact and 1 denotes that there may be a financial impact but productivity should not be limited. Some proposed rules receive a low rating because the particular issue is not relevant to our operation and we have no experience with it. However, that same rule may be extremely critical to another grower. Around a general norm-of-practice, there will be variations among growers due to a variety of factors (e.g., location, beach type, weather conditions).
- With a few exceptions, we make very limited comments in the matrix. Greater detail is provided when we are using the rule to demonstrate a particular point or principle, e.g., about duplication, or lack of understanding of the business side of farming.
- Also noted is whether the Small Business Economic Impact Statement (SBEIS) addresses the disproportionate impact on small business of the proposed rule.

With respect to the Small Business Economic Impact Statement (SBEIS):

- Notwithstanding the caveats written into the report, the fact that it attempts to draw any conclusion at all about disproportionate impacts is beyond words—an analysis focused mainly on one of a long list of proposed permit requirements and limits/conditions does not warrant such a

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<sup>1</sup> RCW 90.58.020, Shoreline Management Act of 1971, Legislative findings-State policy enunciated-Use preference: The legislature noted, by its carefully wording, that limited reduction of rights of the public in navigable waters is allowable; public rights are protected generally, but not necessarily specifically in each and every instance.

<sup>2</sup> Preliminary Cost-Benefit and Least Burdensome Alternative Analyses, Department of Ecology, Publication No. 10-06-020, July 2010, page 3; Small Business Economic Impact Statement, Department of Ecology, Publication No. 10-06-019, July 2010, page 3.

stretch.<sup>3</sup> Equally troubling is the fact that the report did not even go near the issue of cumulative impacts of several of these proposed rules interacting with each other.

- Statements regarding growers' likely reactions to buffer limits are also troubling in that the statements indicate a lack of understanding farming limitations, particularly for small growers. That we see this same lack of understanding on both the policy side (i.e., in the proposed rules themselves) and the economic side is unnerving to the "regulatee".<sup>4</sup>
- The mitigation actions (to mitigate the disproportionate impact on small business) that are most emphasized by Ecology include:
  - Allowing multiple parcels to be permitted under one permit  
As discussed in the matrix, there is an enormous downside to exercising this option. Given that a segment of the anti-aquaculture community has a clearly stated strategy of appealing every farm application, this bundling option simply makes the appeal process more cost-effective for the third-party applier.
  - Allowing submittal of federal or state permit applications in partial fulfillment of requirements  
It is unclear to us that the proposed language supports this statement and will actually achieve the goal of reducing redundancy and duplication of effort (on everyone's part – regulator and regulatee)
  - Ensuring that a grower gets to harvest what he/she plants  
While we appreciate the language change to ensure that a grower can harvest what he/she plants, the 5-year conditional use permit is what created the problem to start with. So, in essence, Ecology is attempting to solve a problem it created.

All in all, we would be hard pressed to say that the proposed mitigation actions will have any appreciable impact on the potential financial hit to small business of the proposed rules (taken individually and collectively).

The Department of Ecology has two levels of guidance for local governments regarding shoreline management—"Big G" guidance in the form of formal rules and "little g" guidance in the form of technical assistance. Given that the latter is more flexible and easily changed, it seems to be the more responsive venue for meeting Ecology's goal of an "adaptive approach" to "...allow local jurisdictions and Ecology to consider new research and monitoring results ..." and revise limits and conditions accordingly<sup>5</sup>. In this spirit, we believe that the Siting, Conditional Use Permit, and Limits and Conditions sections of WAC 173-26-241(3)(b)(ii) need significant additional work and should not go forward as presented.

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<sup>3</sup> In addition, it appears that the analysis of the one limit/condition (i.e., buffers) contains either math errors or lacks sufficient clarity to follow the calculations.

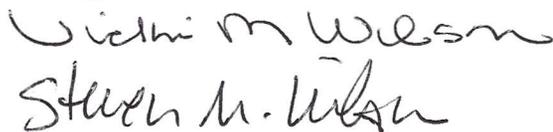
<sup>4</sup> For example: In the analysis of the impact of buffers, the statement is made that, in response to buffers, "...it is more likely that growers would simply increase the initial size of their parcel or slightly increase their planting density". Believe me, if there were more plantable area on a parcel it would be planted, not sitting in reserve; and, increasing planting densities beyond those currently shown to maximize survival defies logic. This quote is from the Preliminary Cost-Benefit and Least Burdensome Alternative Analyses, Department of Ecology, Publication No. 10-06-020, July 2010, page 11; from which the SBEIS is derived.

<sup>5</sup> Quotes taken from: Addendum to 2003 Proposed Shoreline Master Program Guidelines Rule Amendment, Supplemental Final Environmental Impact Statement, Department of Ecology, Publication No. 10-06-017, July 2010, page 6.

We are also concerned for the non-geoduck branches of our industry and the unintended consequences if the rules (e.g., siting, conditional use permits, limits and conditions) developed for geoduck aquaculture become the fall-back for local planners and get applied indiscriminately across other shellfish aquaculture and other physical locations (e.g., Willapa) where they may be totally inappropriate. At a minimum, we believe Ecology needs to clarify and reinforce that these rules are geoduck-specific, site-specific, and not intended nor appropriate for other applications.

**All industry needs some degree of oversight, ours included. However, the oversight / regulation must be pragmatic, implemented to address a substantive science or state policy issue (not perceived or speculative problem), non-duplicative of existing avenues for addressing the problem, and based on a clear understanding of the business being regulated. Our concern with many of Ecology's proposed rule changes is that they are inconsistent with these principles and, at times, clearly out-of-proportion to a perceived problem. Frankly, many of the proposals are so extreme that it is hard to understand the motivations behind them.**

Sincerely,

Handwritten signatures of Vicki M. Wilson and Steve M. Wilson. The first signature is in cursive and reads "Vicki M. Wilson". The second signature is also in cursive and reads "Steve M. Wilson".

Vicki and Steve Wilson  
Owners, Arcadia Point Seafood  
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P.S. We hope that Ecology will take advantage of the opportunity presented by the Governor's recent Executive Order to suspend rule making. The current rules are unworkable, process and "small p" politics appear to have trumped any vestige of good public policy, and the Governor has made it clear she wants small business to focus on its core and get the economy moving again. You have an out, take it.

**Attachment A: Comments on Department of Ecology's Proposed Rule Changes to WAC 173-26-241(3)(b)(ii)**

Subsection of WAC 173-26-241(3)(b)(ii)	Comments
<b>(A) Siting</b>	<p><b>Level of financial impact to our business = 3</b></p> <p>There is no reason to impose or enforce any stricter limits than would be applied to homeowners' personal use of their tidelands. Inserting the words "significant" and "major" to the last part of the sentence so that it reads: "...without <i>significant</i> modification of the site such as <i>major</i> grading or rock removal" addresses the concern. Limits are understandable, but without the modifiers the rule is simply not practical and opens growers to frivolous charges of violation.</p> <p><b>Addressed in Ecology's SBEIS? No.</b></p>
<b>(B)(I) Conditional Use Permit (CUP), Required</b>	<p><b>Level of financial impact to our business = 5+</b></p> <p>We have several concerns with this section.</p> <p>Our primary concern involves the question of why a permit is required at the local level. Ecology supports its position by arguing that requiring a conditional use permit (1) helps the industry by providing some level of consistency across counties, both in terms of the specific permit required and in terms of Ecology having review power and (2) is consistent with SARC recommendations. The consistency argument is somewhat dampened by the fact that limits and conditions placed on the permits are likely to range widely across local jurisdictions, even with Ecology review. And, in some circumstances, an applicant may find he/she has to complete a substantial development permit as well as the state-mandated conditional use permit. More importantly, requiring a conditional use permit appears, by implication, to label geoduck aquaculture as development, a position counter to that of the Attorney General's 2007 opinion that geoduck aquaculture does not, in all cases, qualify as development. SARC's consensus recommendation seems to recognize this point by allowing local governments to review applications on a site-specific basis and, as one option, provide a written exemption determination. Considering that</p> <ul style="list-style-type: none"> <li>(1) all new farms have to undergo extensive federal permitting by the Corps of Engineers on a site-specific basis, including a detailed description of farming methods as well as a biological evaluation involving consultation with U.S. Fish and Wildlife and National Marine Fisheries, with resulting conservation measures,</li> <li>and</li> <li>(2) that existing farms which change species, footprint, or significant operational techniques are required to notify the Corp of the change and deal with any subsequent review processes deemed necessary,</li> <li>and</li> <li>(3) that state Ecology will likely have its own set of water quality and "no net loss" conditions and limitations for site-specific certification,</li> </ul> <p>it is hard to argue that there is a lack of site-specific review and oversight, and easy to argue that requiring yet another permit lays the groundwork for an enormous amount of unnecessary duplication, as well as unnecessary workload and cost, being placed on local governments and growers.</p>

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Subsection of WAC 173-26-241(3)(b)(ii)	Comments
	<p>If the CUP requirement remains, the following are our concerns:</p> <ul style="list-style-type: none"> <li>• Adjusting the five-year permit to allow for harvesting is a welcome addition and addresses the issue of being able to harvest what one plants. Nonetheless, this rule is a good example of lack of understanding of the business side of farming, especially for a small business. As a small business, we need to build infrastructure and know that costs are recoverable over more than one cycle of planting. With a crop that takes 5 to 6 years to achieve market size, it is critical that a small business with limited acreage be able to count on <i>that acreage</i> for future cycles of planting. As you know, you do not just pick up and find suitable geoduck substrate somewhere else to fill a gap in your planting cycle. Planting gaps can be devastating for the long-term viability of a small business. The ability to get to know a site and rely on repeated plantings at that site is what enables us to make needed investments, including good equipment that allows us to be "least intrusive"(e.g., diesel harvest motors with hospital grade mufflers) and trained staff that know how to leave the smallest environmental impact (e.g., identify herring spawn). And, when needed, it is also what enables us to have the support of financial institutions. We work with our Lessors to develop long-term relationships for these very reasons; a state requirement of a 5-year permit undermines our ability to develop these relationships and sustain our business.</li> <li>• There is nothing in the language to ensure streamlined procedures or timely review of a CUP reapplication. Nor is there language to ensure that renewal will not be unreasonably withheld. In addition, each subsequent 5-year reapplication presents another opportunity for appeal. A segment of the anti-aquaculture community has made it clear that their main strategy to kill the industry is to appeal each farm application to the fullest extent possible. This will be an extreme hardship for the industry as a whole; it will be especially difficult for smaller businesses that cannot financially weather permitting delays and resultant gaps in planting cycles, not to mention the crush of costs associated with appeals. There is nothing in statute that says a CUP has to be time limited. It can be awarded once, with provisions for expedited, periodic review if significant changes occur.</li> <li>• The language regarding when a CUP is required and when it is discretionary is confusing. For example, a CUP is required for any new geoduck farm "in areas that have not been previously planted with geoduck", yet is discretionary when converting an area from non-geoduck shellfish aquaculture to geoduck. Isn't the latter an area that "has not been previously planted with geoduck"? The problem this language is trying to solve is unclear. Additionally, we are concerned about the language requiring a CUP for <i>any</i> expansion, rather than a <i>significant</i> expansion—for a variety of farm management reasons, different planting cycles on the same beach will result in some variation in planted area.</li> <li>• We appreciate that Ecology has tried to lessen the burden of permitting by allowing a single permit for multiple sites. While the permit application fees for multiple, co-located sites can be a strain, they are no where near the costs imposed on farms by third-party appeals of farm permits. By having multiple sites under a single permit application, a third-party can tie up a small business's future with a single appeal fee (giving the third-party even less incentive than it would otherwise have for deciding whether their appeal has merit or not).</li> </ul> <p><b>Addressed in Ecology's SBEIS? No - addressed negligibly but not substantively</b></p>
<b>(B)(II) Conditional Use Permits, Review and Approval</b>	<p>We have several concerns with this section.</p> <ul style="list-style-type: none"> <li>• Ecology encourages local governments to develop a permit application that <i>mirrors</i> federal or state applications in order to reduce redundancy. The word "mirrors" gives us little hope that redundancy will be substantially reduced. More</li> </ul>

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Subsection of WAC 173-26-241(3)(b)(ii)	Comments
	<p>importantly, based on our comments above, we believe counties should have the option to not require another permit, but rather review what has been submitted to other permitting agencies in lieu of another set of paperwork. To do otherwise places an enormous cost burden on small business and on local governments, e.g., diverting staff or contracting resources to develop and maintain expertise in best-available-science for a very narrow part of their regulatory "book of business".</p> <ul style="list-style-type: none"> <li>• We have no idea of the relevance, other than curiosity, of requiring harvest records. In and of itself, this is a very minor point, but it exemplifies a larger issue. Good regulation is based on requiring the absolute minimum amount of information and limits/conditions needed to get the regulatory job done. Much of this section seems to have lost sight of that principle.</li> <li>• The requirement to ensure public access to public lands/waters is unclear; we assume this does not imply violating private property rights but a clarification would be helpful.</li> </ul> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p><b>(B)(III) Conditional Use Permits, Limits and Conditions – Preamble to the 15 bulleted "limits and conditions" statements</b></p>	<ul style="list-style-type: none"> <li>• "At a minimum" and "where applicable and appropriate" seem to be conflicting standards for requiring proposed limits and conditions. <u>More importantly</u>, as described during public hearings and as noted in Ecology's Addendum<sup>1</sup>, "The proposed rule changes include limits and conditions for local government <i>to consider</i> during project review and permit writing." (italics added) A checklist for "consideration" sends quite a different message than "At a minimum .. shall include", even when modified by "where applicable and appropriate". Moreover, starting each bullet point with words like prohibit, limit, or require is clearly a different directive than saying "consider". For example, the following wording is more consistent with Ecology's stated goal:  Application reviewers may want to consider the following: <ul style="list-style-type: none"> <li>• Placement of tanks or pools or other impervious materials directly on the intertidal sediments;</li> <li>• Use of trucks ...</li> </ul> </li> </ul> <p>[Note: We are not arguing that the above are appropriate things to consider, simply that Ecology's choice of language does not support its stated goal of providing local governments with a checklist of things to consider.]</p> <ul style="list-style-type: none"> <li>• The principle of "no net loss of ecological function" appears throughout the proposed rules. Although we note our concern here, it is equally relevant elsewhere. Within the science community, "no net loss of ecological function" generally is meant as a broad-based standard applied basin-wide or region-wide but not on a site-specific basis. Our concern is that this meaning will be lost in the permitting process and inappropriately applied on a site by site basis, for example, as a rationale to limit a farm's planting/harvest area.</li> </ul> <p><sup>1</sup> Addendum to 2003 Proposed Shoreline Master Program Guidelines Rule Amendment, Supplemental Final Environmental Impact Statement, Department of Ecology, Publication No. 10-06-017, July 2010, page 5.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>

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Subsection of WAC 173-26-241(3)(b)(ii)	Comments
<b>(B)(III) Conditional Use Permits, Limits and Conditions – 15 specific limits and conditions</b>	The following 15 limits and conditions are numbered according to their order in the rule. A scale of 1 to 5 is used to convey the financial harm our business could incur if these limits / conditions were implemented as now written. 5 denotes the potential for extreme negative financial impact; 1 denotes that there may be a financial impact but productivity should not be limited.
1. Prohibiting or limiting the practice of placing tanks or pools or other impervious materials directly on the intertidal sediments.	<p><b>Level of financial impact for our business = 5</b></p> <p>This is a good example of not understanding basic farming needs and hatchery operations/capacity, and the implications for small business. There are few hatcheries producing seed; those hatcheries have limited space and thus capacity for holding seed. As a result, a small grower needs to take seed when it is available, regardless of whether his/her beach is ready to plant, otherwise he/she may end up with no seed at all for an entire planting season. With limited acreage, one year with no planting can prove financially disastrous with effects rippling throughout the infrastructure of the business. In the extreme, it can result in losing a lease when unable to guarantee one's ability to plant within a specific time.</p> <p>The goal in our farming is to maximize survival, while minimizing environmental and aesthetic concerns. As a rule, larger seed equals higher survival; <i>short-term</i> grow-out in nursery trays is the only cost-effective, viable method for small growers to achieve that size. Higher survival in planted tubes leads to lower planting costs and higher yields; which in turn necessitates less replanting of the beach and shorter total length of time for tubes and other predator exclusion devices to be present.</p> <p>It is particularly unnerving that Ecology would even consider an outright prohibition; reasonable limits may be workable but an outright prohibition is beyond reason.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
2. Prohibiting or limiting the use of trucks, tractors, forklifts, and other motorized equipment below the ordinary high water mark and requiring that such equipment, when authorized, use a single identified lane to cross the upper intertidal to minimize impacts.	<p><b>Level of financial impact for our business = 1</b></p> <p>No comment because we do not use motorized vehicles on the beach. HOWEVER, there are other small growers for whom this is a major issue.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
3. Limiting on-site activities during specific periods to minimize impacts on fish and wildlife.	<p><b>Level of financial impact for our business = 5</b></p> <p>Creates risk that local governments may unilaterally impose restrictions on farm operations for reasons that may have no basis in fact or science.</p> <p>Issue is thoroughly addressed in the site-specific federal Corps permitting process, which includes consultations with US Fish and Wildlife and National Marine Fisheries., and the resulting conservation measures attached to the federal permit.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>

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Subsection of WAC 173-26-241(3)(b)(ii)	Comments
<p>4. Limiting alterations to the natural condition of the site, including removal of vegetation or rocks, regrading of the natural slope and sediments or redirecting freshwater flows.</p>	<p><b>Level of financial impact for our business = 4</b></p> <p>May deny the farm the ability to deal with excess vegetation. Ulva may occur in dense quantities over the intertidal beaches of farm sites due to high nitrogen levels from failing septic systems, upland livestock, or use of upland fertilizers. Growers need to control the abundance of Ulva, including the option to relocate the vegetation to other areas.</p> <p>May also deny the farm the ability to redirect heavy runoff within the farm site during planting or while tubes are in the beach. Development of upland drainages increases acute runoff events.</p> <p>Inability to manage conditions such as these on the farm site can lead to very low survival rates.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p>5. Limiting the area of the site that can be planted or harvested at one time, to limit the areal extent of impacts.</p>	<p><b>Level of financial impact to our business = 5+</b></p> <p>Extreme limit / condition that will severely reduce the productivity of a farm.</p> <p>There is no known justification or science for this condition. This limitation illustrates Ecology's intent to curtail aquaculture activities beyond establishment of best management practices. If "areal extent of impacts" refers to cumulative effects, there should first be credible evidence that there is a net <u>negative</u> impact as opposed to net <u>positive</u> impact from aquaculture.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p>6. Limiting the portion of a site that can be covered by predator exclusion devices at any one time.</p>	<p><b>Level of financial impact for our business = 5+</b></p> <p>Extreme limit / condition that will severely reduce the productivity of a farm.</p> <p>There is no known justification or science for this condition. This limitation illustrates Ecology's intent to curtail aquaculture activities beyond establishment of best management practices. When area netting is needed for tube containment, the proposal will limit the ability of the grower to keep materials within the farm boundaries.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p>7. Requiring compliance with the Washington department of fish and wildlife shellfish transfer permitting system to minimize the risk of transferring or introducing parasites and disease into areas where they currently do not exist.</p>	<p><b>Level of financial impact for our business = 1</b></p> <p>Agree.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>

**Attachment A: Comments on Department of Ecology's Proposed Rule Changes to WAC 173-26-241(3)(b)(ii)**

Subsection of WAC 173-26-241(3)(b)(ii)	Comments
8. Requiring installation of property corner markers that are visible at low tide.	<p><b>Level of financial impact for our business = 1</b></p> <p>The farm site boundaries should be surveyed prior to initial planting and re-established before harvesting. Visible markers are not necessary during grow-out. A grower often will remove all evidence of an existing farm after tubes are removed; the only indication of the farm being an abundance of geoducks. Visible markers are difficult to maintain unless they are off the bottom, and the intent of the grower should be to keep any farm materials out of the water column and out of the way of navigation. Neighboring tideland owners often prefer to see no evidence of makers on the beach.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
9. Requiring buffers between geoduck operations and sensitive habitat features like critical saltwater habitats.	<p><b>Level of financial impact for our business = 5</b></p> <p>To date, there are no credibly defined, science based standards for buffers. Some proposed buffers would make small farms unplantable. Creates risk that local governments may unilaterally impose restrictions on farm operations for reasons that may have no basis in fact or science.</p> <p><b>Addressed in Ecology's SBEIS? Yes (but have concerns about calculations)</b></p>
10. Requiring measures to minimize impacts to fish and wildlife.	<p><b>Level of financial impact for our business = 5</b></p> <p>This condition is so broad as to be useless. With no criteria provided, it appears that the sole purpose is to enable the county to prohibit a farm from operating. Creates risk that local governments may unilaterally impose restrictions on farm operations for reasons that may have no basis in fact or science.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
11. Requiring the 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.	<p><b>Level of financial impact for our business = 2</b></p> <p>Condition should eliminate the reference to "minimal adverse ecological effects". No greater limits or caveats are needed than what will be approved under the Army Corps individual permit. As per best management practices, predator exclusion devices are removed asap; there is no advantage to not doing so.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
12. Requiring the use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.	<p><b>Level of financial impact for our business = 2</b></p> <p>Condition will increase harvest costs but is unlikely to lower farm productivity. Farm management plans by definition incorporate "best available" techniques. There may not be a better, cost-effective, method than those currently used. Conditions should not be arbitrarily imposed without evidence of need or likelihood of success.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>

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Subsection of WAC 173-26-241(3)(b)(ii)	Comments
<p>13. Establishing limits on the number of barges or vessels that can be moored or beached at the site as well as duration limits.</p>	<p><b>Level of financial impact for our business = 1</b></p> <p>Condition may increase operation costs but is not likely to lower farm productivity. The number of vessels moored at a site should not violate existing state or local standards. Beyond that, growers should not be limited to the number, type, or size of vessels needed to carry out the farming activity. As per best management practices, farm vessels should be beached only when necessary and for the shortest time possible. Beached vessels should avoid marine vegetation.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p>14. Requiring measures to minimize impacts to navigation, including recreational uses of the water over the site at high tide.</p>	<p><b>Level of financial impact for our business = 1</b></p> <p>This condition is a best management practice, and should be contained in a farm's management plan.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>
<p>15. Requiring good housekeeping practices at geoduck aquaculture sites, including removing equipment, tools, extra materials and all wastes at the end of each working day.</p>	<p><b>Level of financial impact for our business = 1</b></p> <p>This condition is a best management practice, and should be contained in a farm's management plan.</p> <p><b>Addressed in Ecology's SBEIS? No</b></p>

SBEIS = Small Business Economic Impact Statement, Department of Ecology, Publication No. 10-06-019, July 2010.