

Skagit County SMP
Proposed Aquaculture Policies and Regulations
March 3, 2013

Aquaculture means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. **[This will move into Part VIII: Definitions]**

■ **Aquaculture**

Policies

- 6A-8.1 Aquaculture is an activity of statewide interest and should be encouraged. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Shellfish aquaculture provides ecosystem services such as wildlife habitat and improved water quality through filtration.
- 6A-8.2 Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.
- 6A-8.3 Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Some latitude in the development of new harvest methods and growing practices will be afforded existing operators in the development of the use as well as its potential impact on existing uses and natural systems.
- 6A-8.4 Areas with high aquaculture resource potential, including but not limited to areas within Samish, Padilla and Skagit Bays, should be identified and encouraged for aquaculture use and protected from degradation by other types of land and water use. Priority should be given to aquaculture uses in areas having a high potential for such uses. Padilla Bay tidelands owned by the National Estuarine Research Reserve (about 95% of the Bay), are open for recreational shellfish harvest (consistent with State Department of Health and State Department of Fish and Wildlife rules for harvest), but are not open for commercial aquaculture.
- 6A-8.5 The County should strengthen and diversify the local economy by encouraging appropriate aquaculture uses.

- 6A-8.6 Flexibility to experiment with new aquaculture techniques should be allowed. The potential impact of new aquaculture techniques on existing uses and natural systems should be considered.
- 6A-8.7 New or expanded aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adverse impacts to eelgrass and macroalgae, and significant conflicts with navigation and existing water-dependent uses. Impacts to ecological functions should be mitigated according to the mitigation sequence described in SCC 14.26.310(4).
- 6A-8.8 Development or uses upland of either aquaculture uses or areas with a high potential for such uses should not degrade water quality. Maximum effort to protect and restore water quality should be made in areas with existing aquaculture or with a high potential for aquaculture.
- 6A-8.9 Intensive residential uses, industrial and commercial uses, and uses unrelated to aquaculture should be located to avoid conflicts with aquaculture operations.
- 6A-8.10 Consideration should be given to the impacts proposed aquaculture activities will have on established and historic uses of the aquatic environment, including but not limited to navigation; moorage; sport or commercial fishing; recreational boating; log towing, rafting and storage; underwater utilities; native fish and shellfish resources; and active scientific research. Previous unrestricted recreational use of surface waters should not be grounds for denial of aquaculture proposals.
- 6A-8.11 Commercial geoduck aquaculture should only be allowed where sand, sediments, topography, land and water access support geoduck operations without significant clearing and grading.
- 6A-8.12 Restoration projects involving shellfish aquaculture and community shellfish projects should be encouraged. The County should consider establishing a program utilizing shellfish aquaculture to offset anthropogenic nutrient inputs to shoreline areas.

[This table will be reinserted into 14.26.290, page 55 of draft SMP]

	Natural	Rural Conservancy - Skagit Floodway	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Aquaculture							
General aquaculture	CU	SD/E ²	SD/E ²	SD/E ²	SD/E ²	SD/E	Upland
Non-commercial freshwater hatcheries	CU	SD/E ²	CU	SD/E	SD/E	SD/E	UPLND
Net-pens	CU	CU	CU	CU	CU	CU	UPLND
Commercial geoduck aquaculture	CU ³	NA	CU ³	CU ³	CU ³	CU ³	UPLND

NOTE: New aquaculture in the Rural Conservancy-Skagit Floodway is subject to SCC14.34.

1. See **aquaculture**.
2. Aquaculture activities that include overwater or immediate shoreline structures or extensive alteration of shoreline areas also require a Conditional Use Permit.
3. New commercial geoduck aquaculture is subject to provisions in 14.26.415(8), Geoduck aquaculture.

Comment [BDS1]: This item relates to the Agriculture category, which shows up on the larger Shoreline Use and Modification Matrix (pages 55-58 of SMP)

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Existing shoreline permit*?	Permit* required for...		
	Expansion	Cultivation of new species not previously cultivated in the State of Washington	To use new culture technique that has significant adverse environmental impacts
Issued after adoption of this SMP	Beyond permitted area	If not allowed in existing shoreline permit	If not considered in existing shoreline permit
Issued before adoption of this SMP	More than 10% or one acre, whichever is less, beyond cultivated area ¹	Always	If not considered in existing shoreline permit
No shoreline permit	Always	Always	Always

*Shoreline permit includes a written statement of exemption, shoreline substantial development permit, conditional use permit, or variance.

14.26.415 Aquaculture.

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(1) When is a shoreline permit required? Shoreline permit includes a written statement of exemption, Substantial Development Permit, Conditional Use Permit or Variance.

Comment [RW2]: Includes exemptions

(a) New aquaculture. A shoreline permit is required for the initial siting, construction, planting, or stocking of the facility or farm.

Comment [RW3]: Old section #2.

(b) Ongoing aquaculture. A shoreline permit is not required for the ongoing operation, maintenance, harvest, replanting, restocking, or changing the culture technique or species cultivated in a permitted aquaculture operation.

Comment [RW4]: Old section #3 and 4.

(c) Expansion of existing aquaculture.

Comment [RW5]: Rewritten based on old section #3 and #4. See also green table above.

(i) For existing aquaculture without an existing shoreline permit, any expansion requires a shoreline permit.

(ii) For existing aquaculture permitted under this SMP, a shoreline permit is required when:

(A) the activity expands beyond the permitted area,

(B) cultivates a new species not previously cultivated in the State (if not allowed in existing shoreline permit); or

(C) uses a new culture technique that has significant adverse environmental impacts (if not considered in existing shoreline permit).

- (iii) For existing aquaculture permitted under a previous version of this SMP, a shoreline permit is required when:
 - (A) the activity expands more than 10% beyond the cultivated area, or one acre, whichever is less, or creates unmitigated impacts to native plant and animal populations;
 - (B) cultivates a new species not previously cultivated in the State (if not allowed in existing shoreline permit); or
 - (C) uses a new culture technique that has significant adverse environmental impacts (if not considered in existing shoreline permit).

(2) Exemptions.

- (a) A written statement of exemption is required for aquaculture activities that do not constitute substantial development or otherwise require a Conditional Use Permit or Variance.

Comment [RW6]: Old section #1.

(3) General requirements.

Comment [RW7]: Other numbered sections reorganized and grouped; mostly not rewritten.

- (a) Aquaculture facilities must be designed and located to:
 - (i) prevent the spread of disease to native aquatic life;
 - (ii) prevent the establishment of new nonnative species which cause significant ecological impacts; and
 - (iii) prevent significant impact to the aesthetic qualities of the shoreline, with consideration given to height, color, uniformity, and arrangement.
- (b) Upland structures accessory to an aquaculture use that do not require a waterside location or have a functional relationship to the water must be located landward of the shoreline buffers required by this SMP.
- (c) Impacts to ecological functions must be mitigated according to the mitigation sequence described in SCC 14.26.310(4).
 - (i) Aquaculture activities proposed in saltwater must be designed, located, and managed to minimize impacts to native eelgrass and macroalgae. An assessment and mitigation plan in accordance with SCC 14.26.310(5) is required. The standards found in SCC 14.26.550 for critical saltwater habitats must also be addressed in the assessment.
- (d) The harvesting of aquaculture products is subject to all applicable state and federal health regulations, as determined by applicable state and federal agencies.

Comment [RW8]: Can't make two conflicting standards mandatory.

Deleted: outside shoreline jurisdiction, or at a minimum,

- (e) Chemicals used in aquaculture operations must be used in accordance with state and federal regulations, as determined by applicable state and federal agencies.
- (f) Predator control measures used in aquaculture may not include those intended to kill or injure birds or mammals. Predator control methods must comply with federal and state regulations, as determined by applicable federal and state agencies.
- (g) Project applicants must obtain all required state and federal approvals to ensure compliance with established water quality standards and regulations relating to the introduction or transfer of aquatic organisms into or within the County's salt or fresh waters.
- (h) All aquaculture proposals requiring a shoreline permit must be accompanied by a Joint Aquatic Resources Permit Application (JARPA) and SEPA checklist, when applicable. The County must, to the greatest extent possible, minimize redundancy in the permit process and rely on documentation submitted by the project applicant to federal or state agencies.

Comment [RW9]: Combined from old sections 5 and 7.

(4) Floating aquaculture.

- (a) Floating and submerged aquaculture structures must not be located in or interfere with existing navigation lanes or channels. All floating and submerged aquaculture structures and facilities in navigable waters must be marked in accordance with U.S. Coast Guard requirements.
- (b) Floating or hanging aquaculture facilities must not have permanent structures that exceed eight feet in height above the water's surface. The Administrative Official may approve hoists and similar equipment that permanently exceeds eight feet in height when there is a clear demonstration of need. The eight-foot height limit does not apply to support vessels, barges, or platforms not permanently moored at the facility.
- (c) Floating aquaculture uses and development that require attaching structures to the bed or bottomlands ~~must use anchors that minimize disturbance to substrate, e.g. helical anchors.~~

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(5) Protection of water quality near aquaculture areas. Applicants proposing development in upland areas must address potential impacts and conflicts with existing aquaculture operations.

- (a) New development or redevelopment within the shoreline jurisdiction adjacent to or upstream of areas with existing aquaculture or a high potential for aquaculture must practice strict pollution control procedures to ensure it will not adversely impact water quality.

- (b) New residential developments adjacent to a water body supporting aquaculture operations must install drainage and storm water treatment facilities to prevent any adverse impact to aquaculture operations. Such measures must include but not be limited to vegetated swales, retention ponds, and use of artificial or natural wetlands, provided no adverse impacts to the receiving wetlands would occur.
- (c) New residential development dependent on a septic system must be conditioned for routine inspection and maintenance of such system.
- (d) New marinas that provide overnight or long-term moorage must not be located in areas with recreational or commercial shellfish beds.
- (e) Site preparation in the vicinity of aquaculture operations must not result in any off-site erosion, siltation, or reductions in water quality.

Comment [RW10]: Move to general upland section.

(6) Shorelines of Statewide Significance.

- (a) Applications for new aquaculture within Shorelines of Statewide Significance must address the policies of RCW 90.58.020.
- (b) Mechanical disturbance of bottom materials for shellfish harvest is prohibited on Shorelines of Statewide Significance, except the traditional mechanical (drag) dredge shellfish harvest method may be allowed as a conditional use. All hydraulic harvest methods require a Conditional Use Permit.

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(7) Net pens.

- (a) ~~For all new net pens, the applicant must provide project and site-specific environmental information, baseline surveys, biological evaluations, and biological assessments with specific regard to protecting native fish and wildlife, as required by local, state and federal regulations.~~
- (b) In addition to the other applicable requirements of SCC 14.26.415, if a new net pen facility proposes to locate within five miles of the mouths of the Skagit or Samish Rivers, the applicant must demonstrate that the native fish and wildlife resources will not be significantly impacted.
- (c) New net pen proposals must locate at least 1,500 feet from any state park boundary, wildlife refuge, reserve, or habitat of local importance found in SCC 14.24.500(4), unless it is demonstrated by the applicant that the wildlife resource will not be significantly impacted.
- (d) Net pen facilities may be located no closer than 1,500 feet from the OHWM, except a lesser distance may be authorized through a Shoreline Variance if a visual

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impact analysis demonstrates a lesser distance will not result in a significant adverse impact to aesthetic qualities of the shoreline.

(8) Geoduck aquaculture.

- (a) A Conditional Use Permit is required for new commercial geoduck aquaculture.
- (b) Geoduck aquaculture should be located where sediments, land and water access, and topography support geoduck aquaculture without significant clearing or grading.
- (c) A single application for a Conditional Use Permit may be submitted for multiple geoduck aquaculture sites within an inlet, bay, or other defined feature, provided the sites are all under control of the same applicant and within Skagit County.
- (d) An application for geoduck aquaculture must contain the following information:
 - (i) A narrative description and timeline for all anticipated geoduck planting and harvesting activities;
 - (ii) A baseline ecological survey of the proposed site, including surveys of existing shellfish resources, potential finfish habitat, substrate composition, and aquatic vegetation;
 - (iii) ~~Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations;~~
 - (iv) Whether the proposal involves placing nursery tanks, holding pools or other impervious materials directly on the intertidal sediments;
 - (v) Whether the proposal involves the use of motorized vehicles below the ordinary high water mark;
 - (vi) Specific periods when limits on activities are necessary to protect priority habitats and associated species and avoid conflicts with neighboring uses;
 - (vii) Any required alterations to the natural conditions of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments;
 - (viii) Whether the proposal involves marking property corners such that they are visible at low tide during planting and harvesting;
 - (ix) The proposed use of predator exclusion devices and timing of planned removal of such devices;

Deleted: <#>In the event of a significant fish mortality (5% of the fish per week or greater) at the site of a net pen facility, the aquaculture operator must immediately report to the Washington State Department of Health, the Skagit County Public Health District and the Washington Department of Fish and Wildlife regarding the increased mortality event.¶

Comment [RW11]: Already in general provisions.

Deleted: <#>Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC 173-26-201(2)(e), if necessary; ¶

- (x) Planned methods of minimizing turbid runoff during harvest;
- (xi) The number and duration of barges or vessels that will be moored or beached at the site;
- (xii) Whether the proposal will affect navigation;
- (xiii) How the prevention of marine debris accumulation will be addressed; and
- (xiv) Whether the site contains existing public access to ~~publicly-owned lands.~~

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- (e) Conditional Use Permits for geoduck aquaculture must identify that the permit entails a right to harvest planted geoduck. Geoduck operations may be conditioned to avoid or limit impacts from geoduck aquaculture siting and operations. Conditional Use Permits may include reasonable monitoring and reporting requirements to verify the permitted activity is in compliance with permit conditions. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirement.
- (f) Notice of an application for geoduck aquaculture must be provided to all property owners within 300 feet of the proposed project boundary and to tribes with usual and accustomed fishing rights to the area.

Comment [RW12]: Already in general provisions.

Deleted: (e) . In considering an application for geoduck aquaculture, the County may minimize redundancy in the permitting process and rely on documentation submitted by the project applicant to federal or state agencies.