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Mary Ellen Winborn, Director

MEMO

DATE: September 15, 2016

TO: Clallam County Planning Commission

FROM: Greg Ballard, Senior Planner

RE: The adoption of the update to the Critical Areas Ordinance Exemption on Existing and On-Going Agricultural Exemption dated September 15, 2016 (Attachment 1).

History: DCD has had workshops before the Planning Commission on March 16, 2016, June 15, 2016, and August 3, 2016 to address the Update to the Critical Area Code concerning critical area regulations for Existing and On-Going Agriculture.

To ensure that the public has been aware of this update, DCD has done the following:

- Established a website on the County Website on May 10, 2016 & continually updated it with relevant documents;
- Sent mailers to approximately 800 landowners in the Agricultural Taxing & Agricultural Retention Zoning Districts.
- Held a workshop in Sequim on May 24, 2016
- Held a workshop in Forks on May 26, 2016
- The Sequim Gazette wrote two articles on May 8, 2016 and June 8, 2016 about the Critical Areas Code Update for existing on-going agriculture

SEPA: DCD issued a SEPA Threshold Determination of a Determination of Non-Significance on August 19, 2019. The comment period on the DNS ended on September 6, 2016. This DNS was routed to the WA State Department of Ecology, Cities, and Tribes in Clallam County.

Notice of the Public Hearing: Notice of the September 7, 2016 Public Hearing before the Planning Commission to address the Critical Area Code hearing was provided in the following manner:

- DCD published two legal notices in the Peninsula Daily News of the on August 21, 2016 and August 28, 2016.
- A legal notice was also published in the Sequim Gazette on August 24, 2016 and it was on their on-line notices from August 21 to September 4th.
- On August 26, 2016, DCD sent e-mails or letters to the interested parties that included participants from the Planning Commission and Public Workshops.

- DCD also posted the Hearing and draft ordinance on the county website on August 19, 2016
- DCD sent the proposed notice to the Washington State Department of Commerce on August 19, 2016 to start the 60 day review by the state for compliance with the Growth Management Act.
- DCD held a Public Hearing before the Hearing Examiner on September 7, 2016.
- This hearing continued to September 21, 2016 to address the comments from the Makah Tribe, Jamestown Tribe, and the attorney for Protect Peninsula's Future.

The Tribal and Chris Tiption e-mail comments were presented at the September 7th Planning Commission Meeting. The following section address the comments received from the Makah Tribe, Jamestown Tribe, and the attorney for Protect Peninsula's Future.

Comment 1:

Stephanie Martin, Habitat Division Manager/Ecologist Makah Fisheries Management provided a letter dated September 2, 2016. She provided an article called "Streamside Forest Buffer width needed to protect water quality, habitat, and organisms." It was also suggested that instead of using the term "low risk" the term "low impact" be used. They also questioned whether Best Available Science would support a 50 foot buffer from streams, and indicated that a 200 buffer would more likely result in low impact to streams.

Staff Comment: These comments appear to be oriented to the establishment of buffers in undeveloped or forested areas to protect ESA listed species on large dynamic stream systems. In contrast, this proposal is oriented toward areas that have already been used for agriculture continually since 1992, and are already located within the buffers of AHCA and wetlands. This proposal is trying to allow existing on-going agricultural to remain within the AHCA and wetland buffers while including specific best management practices to ensure that existing on-going agricultural operating under the proposed CCC 27.12.037 would result in no harm or degradation to the existing functions and values of the AHCA and wetlands.

Comment 2:

The Jamestown Tribe provided a letter dated September 2, 2016. There following is a summary of the Jamestown Tribe's main issues:

I. The citation of the National Oceanic and Atmospheric Administration (NOAA) Fisheries Interim Riparian Buffers for Streams in Puget Sound Agricultural Landscape dated October 28, 2013.

II. The WEAN vs Island County Court Case regarding critical area requirements for existing and on-going agriculture.

III. That the proposed amendment to the critical area code was not supported by scientific literature. They also cited the Varanasi Memo dated March 17, 2003 on the "Efficacy and Economics of Riparian Buffers on Agricultural Lands".

*Staff Comment: **I. NOAA Table**: - The Working Buffers on Agricultural Lands Paper relied upon by Clallam County is referenced in Section 6.3.4 of the Jefferson County Critical Areas Ordinance Updated Best Available Science Report prepared by ESA.*

This report is dated December 15, 2015. This report was prepared in cooperation with NOAA Restoration Center, Puget Sound Partnership, and the Snohomish Conservation District. This report promotes a more site specific integrated design of riparian buffers as the tool to improve riparian management in agricultural lands. They also concluded that an inner riparian buffer with an outer working (available for conducting agricultural activities) buffer would be more successful than a one size fits all approach.

II. ***Relevant Court Cases****: The WEAN court case addressed Island County's update to the critical area code addressing existing and on-going agriculture. The court decision found that the use of Farm Plans does not meet the requirement to use Best Available Science. They also determined that county's need to monitor the functions and values of critical areas. Clallam County current Critical Area Code exemption for existing and on-going agriculture is being challenged on by Protect Peninsula Future for the same reasons that Island County Critical Areas Code was challenged. The proposed amendments to the Critical Area Code include specific best management practices based on Best Available Science and includes monitoring of functions and values of critical areas to remedy the challenges to Island and Clallam County Critical Areas Code.*

The Westlaw case summary of the H.E.A.L. is attached, which addresses the City of Seattle amending their Critical Areas regulations in 1995. The case focuses on the need to utilize Best Available Science in adopting critical areas regulation. This case was not specifically dealing with existing and on-going agriculture in critical areas. It does inform us, however, that while Clallam County has to include and consider the best available science when drafting a critical areas ordinance, that does not mean there is only one set of best available science that mandates a particular result be made part of the adopted critical areas ordinance.

III. ***Scientific Literature & Best Available Science:*** *The Westlaw Case summary of Swinomish Indian Tribal Community (SITC) and Washington Environmental Council (WEC) (petitioners) vs Western Washington Growth Management Hearing Board (Skagit County) is attached. This case specifically addressed existing and on-going agriculture in critical areas.*

In this case the Washington Supreme Court determined the following:

a) "protection" of critical areas does not require enhancement or improvement of conditions in a critical area that is already in a degraded condition;
b) county's "no harm" standard for anadromous fish habitat in agricultural areas satisfied "protection" requirement;
c) county provided reasoned justification for its decision not to establish mandatory riparian buffers along streams and rivers on upland strip of land; and
d) county was required to establish benchmarks for its salmon habitat monitoring program.

This Section outlines how the Clallam County update to the Critical Area Code is consistent with the SITC & WEC (petitioners) vs Skagit County Hearing Board decision.
a & b. This program applies to existing and on-going agriculture that occurs within and adjacent to AHCA and wetland areas. For most of these areas the riparian areas have been previously degraded prior to June 16, 1992 for the establishment of the agricultural operations regulated under this proposal.
In addition, required Best Management Practices that specify 35 to 50 foot buffers from low intensity agricultural activities and over a 100 foot buffer from high intensity (heavy use and manure storage) areas should improve the water temperature, sediment filtration, and pollution removal of the degraded areas adjacent to existing on-going agriculture.

Clallam County has elected to subject open irrigation and drainage ditches and man-made ponds that are hydro-logically connected to AHCA and wetlands in the proposed amendment in order to enhance these critical areas. In this regard, Clallam County has elected to exceed the minimum requirements of solely not harming or degrading the existing functions and values of the AHCA and wetland areas.

c. The elective buffers that Clallam County has utilized for these degraded conditions are consistent with the specification of the Clallam County Conservation District and the NRCS. In addition, the buffers in the Critical Areas Update for AHCA and wetlands are consistent with the Jefferson County Critical Areas Ordinance Updated Best Available Science Report prepared by ESA dated December 15, 2015. Chapter 6 of this report addresses "Agricultural Activities in and near Critical Areas". This report states that narrow 5 and 15 foot dense buffers are just as effective as wide (35 foot and 180 foot) buffers in lowering water temperature and in generating effective shade on page 6-10.

Section 6.3 of this report provides additional recent scientific literature regarding agricultural uses in critical areas. These studies were utilized for the determination of buffers within the proposed updates to the critical areas code addressing existing on-going agriculture. This report cited (6.3.1) Washington Conservation Reserve Enhancement Program Monitoring Summary; (6.3.2) Washington Agricultural Caucas Riparian Buffer Review; 6.3.3 Chimacum Watershed Water Quality and Fishes Report; and (6.3.4) Working Buffers on Agricultural Lands Paper.

The DCD buffers are also consistent with Section 7.2 Overview of the Aquatic Habitat Functions and Value Section of the Whatcom County Critical Area Ordinance Best Available Science Review and Recommendations for Code Update (attached). This report was prepared by Parametrics, Adolfson Associates, Earth Systems, Coastal Geologic Services, and Jennifer Thomas and Associates, and is dated May 2005.

The Planning Commission should note that these reports come from counties west of the Cascades that share a similar climate, topography and critical areas inventory.

d. Section 7 of Section 27.12.037 includes Baseline Conditions, Indicators, Monitoring, and Adaptive Management to address this requirement.

Comment 3:

Gerald Steel provided comments on the amendments to the Critical Areas Code that are attached. DCD agreed with most of the clarifying changes in the document and incorporated these changes into the document. DCD added a section at the beginning of the Risk Assessment Table stating that risk assessments will be based upon the lowest listed distance where that condition exists. This addresses Gerald Steel's comments on the table. DCD does not think it is necessary to require a 400 foot vegetated area around heavy use and manure storage areas.

Comment 4:

The e-mail from Chris Tipton dated September 7, 2016 regarding the need to protect water is addressed in the comments above.

Proposed Draft Updates to the Clallam County Critical Areas Code, Chapter 27.12 CCC, Critical Areas Code Last Revised on September 15, 2016

SUMMARY OF PROPOSED AMENDMENTS

The proposed updates to the Critical Area Code that follow are related to regulation of existing, ongoing agriculture and include:

1. Amendments to Section 27.12.035 (7), Exemptions, applicable to existing, ongoing agriculture.
2. Add a NEW Section (proposed as Section 27.12.037) containing alternate standards for existing, ongoing agriculture in and adjacent to AHCA and wetlands.
3. Amend Section 27.12.900, Definitions, to amend the current definition of "agriculture" and add a new definition for existing, ongoing agriculture.

PROPOSED AMENDMENT TO SECTION 27.12.035 - EXEMPTIONS

Section 27.12.035, Activities not regulated by this chapter – Exemptions, is amended to read as follows:

The following developments are exempt from the requirements of this chapter and do not require a certificate of compliance; provided that best management practices are incorporated where practicable and necessary in order to avoid impacts to critical areas:

(1) Outdoor recreation such as bird watching, boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities not requiring clearing or grading.

(2) Emergency work when done to protect life or property and authorized by the County Board of Commissioners. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter.

(3) Construction of wildlife nesting structures not involving clearing or grading.

(4) Education and scientific research projects which will have no damaging effect upon the environment.

(5) Site investigation work (e.g., soil surveys, soil logs) or other related activities necessary for designating critical areas.

(6) The placement of temporary or permanent field stakes or monuments for survey purposes, delineating critical areas and buffers, or marking of property lines or corners pursuant to CCC Title 29.

(7) Existing, ~~and~~ ongoing agriculture as defined in Section 27.12.900 CCC, ~~that was conducted prior to the effective date of this chapter on lands designated as critical areas or their associated buffers; provided, that such lands are classified as farm and agricultural land~~

~~pursuant to Chapter 84.34 RCW; provided further, that all activities occurring on such lands employ best management practices (BMPs). For the purposes of this exemption, acceptable BMPs shall include: (a) activities carried out consistent with farm plans issued and authorized by the Natural Resources Conservation Service (NRCS); (b) activities that demonstrate consistency with total maximum daily loads (TMDL) established by the Department of Ecology for specific operations; and/or (c) activities that demonstrate consistency with standard BMPs published by the NRCS, as now or hereafter amended. Written confirmation by the administrating agency that applicable BMPs are being met will constitute evidence of eligibility for this exemption. (See also CCC 27.12.025(7)).~~ including related development and activities which do not result in expansion into a critical area or its buffer and which also do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of Section 27.12.037 CCC. New agricultural activities, expansion of existing agricultural activities or development not meeting the definition of existing, on-going agriculture (per Section 27.12.900) shall comply with both the substantive and procedural provisions of this Chapter.

(8) Normal repair and routine maintenance and operation of residences, landscaping, utilities, roads, trails, irrigation and drainage ditches, and fish ponds which were lawfully constructed, approved, or established prior to the effective date of this chapter; provided, that no expansion results.

(9) Operation and maintenance of all electric facilities, lines, equipment or appurtenances, water and sewer lines; natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances, except for power, water, and sewer substations and pump sites or new utilities within designated frequently flooded areas; provided, that the standards specified in Part Five of this chapter are met. For the purposes of this chapter, operation and maintenance shall include those usual acts necessary for the continued use of existing services in their establish locations. Replacement, expansion, relocation or placement of new utility service lines shall be subject to the standards of this chapter, as applicable.

(10) State forest practices conducted pursuant to Chapter 76.09 RCW. This exemption does not apply to Class IV – general (conversions), or forest practices occurring within designated urban growth areas, or forest practices designated as areas likely to convert through a memorandum of understanding between Clallam County and the Washington Department of Natural Resources, as applicable.

(11) Normal and nondestructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide for a view corridor or removal of non-native vegetation and replacement with native vegetation; provided, that increased erosion or landslide potential or negative impacts to the critical area do not result.

PROPOSED NEW SECTION—ALTERNATE STANDARDS

Section 27.12.037, Alternate standards for existing, ongoing agriculture in and adjacent to AHCA and wetlands, is created to read as follows:

(1) Purpose and Intent. The purpose of this Section is to address two mandates under the Washington State Growth Management Act (GMA), RCW 36.70A:

(a) To protect the existing functions and values in and adjacent to aquatic habitat conservation areas (AHCA) and wetlands, and;
(b) To conserve and protect agricultural lands, specifically those lands with existing, ongoing agricultural activities that are located on or within 200 feet of AHCA's and wetlands regulated under this Chapter.

(2) Applicability. Agriculture activities that do not meet the definition of existing, ongoing agriculture (as defined in CCC 27.12.900) are required to comply with the applicable Wetlands Protection Standards found in CCC 27.12.215 and AHCA Protection Standards found in CCC 27.12.315. Existing, ongoing agriculture activities occurring on or within 200 feet of AHCA's and wetlands may deviate from the protection and buffer standards made applicable to them elsewhere in this Chapter by instead complying with the alternate standards presented in this Section and enrolling in this program. The alternate standards from the AHCA and wetland standards of this Chapter may only be applied to existing, ongoing agriculture activities related to the cultivating of crops, grazing of livestock and the land preparation associated with those agricultural activities.

(3) Enrollment in the Alternate Standards Program for Existing Ongoing Agriculture.

(a) Existing, ongoing agriculture operations (as defined by CCC 27.12.900) are required to submit an Alternate Agriculture Worksheet to the Administrator for review and approval to be enrolled into CCC 27.12.037. This worksheet will include a risk assessment to address the criteria shown in Table 27.12.037(A) below.

(b) A new Alternate Agriculture Worksheet is required every time an agricultural operation under the provisions of CCC 27.12.037 changes ownership or changes the agricultural operation in a manner that results in a higher risk assessment found in Table 27.12.037(A) below. The Administrator will conduct an audit of everyone in this program every 5 years.

(4) No Harm or Degradation Standard.

(a) All existing, ongoing agriculture activities must be conducted so as not to cause harm or degradation to the existing functions and values of AHCA's, wetlands, or their associated buffers (the "no harm or degradation" standard). For the purposes of this Section, the phrase "no harm or degradation" means the following:

(i) Compliance with all documented water quality standards consistent with the Washington State Department of Ecology's Water Pollution Control Laws (RCW 90.48).

(ii) Compliance with all applicable Washington State Department of Fish and Wildlife requirements of Hydraulics Code (RCW 77.55) and the Hydraulic Code Rules (WAC 220-110).

(iii) Conducting agricultural activities to avoid high risk activities outlined in Section 4 of this Section.

(iv) No evidence of significant degradation to AHCA's or wetlands regulated under this Chapter that can be directly attributed to adjacent existing, ongoing agriculture activities.

(b) An owner or operator is responsible only for those conditions caused by agricultural activities conducted on behalf of owner or operator and is not responsible for off-site actions of others, natural conditions not related to the agricultural activities, or emergency actions described in CCC 27.12.035(2).

(5) Existing, Ongoing Agriculture Risk Assessment Criteria.

The success of farms and ranches in Clallam County depends in part on good quality soil, water, air and other natural resources. Agricultural activities that incorporate protection of the environment, including critical areas as defined by this chapter, are essential to achieving this goal. Agricultural activities are expected to be conducted in a manner that protects against harm or degradation to the existing functions and values of AHCA, wetlands, and their associated buffers.

The Administrator shall utilize the low, moderate and high risk assessment criteria in Table 27.12.037(A) to evaluate existing, ongoing agriculture within and adjacent to AHCA's and wetlands. Existing, ongoing agricultural activities may have different risk assessment ratings based on the six performance standards and four risk assessment categories—River and Streams, Water Features (wetlands, ponds, and Irrigation/Drainage Ditches); Livestock Heavy Use Areas; and Manure Storage—in Table 27.12.037(A).

The risk assessment criteria in Table 27.12.037(A) address agricultural activities located within AHCA's, wetlands, and their associated minimum standard buffers regulated under this Chapter, and more intensive agricultural activities (i.e. manure storage, livestock heavy use, confinement areas) located within the 200-foot jurisdictional boundary of these critical areas. The risk assessment criteria in Table 27.12.037(A) also address non-regulated ponds and open irrigation/drainage ditches that are hydro-logically connected to AHCA and wetlands, which may provide a means for pollution to cause harm and degradation to AHCA and wetlands.

(a) Low and Moderate Risk Agricultural Activities. Agricultural activities shall be deemed compliant with this Section if they meet the Low or Moderate Risk Assessment Criteria, unless it is determined by the Administrator that they are causing harm or degradation to the existing functions and values of AHCAs or wetlands located on real property owned, leased, or occupied by the person or entity completing the worksheet. If this occurs for one of the six performance standards then the agricultural operation would be required to develop a Farm Conservation Plan to address activities causing harm or degradation. The intent of Farm Conservation Plan is at a minimum to lower the risk assessment for the specific performance standards of concern. The Farm Conservation Plan shall be submitted to the Administrator for review and approval.

(b) High Risk Agricultural Activities. Agricultural activities that receive a high risk assessment rating on any of the six performance standards are required to submit a Farm Conservation Plan to address the high risk activities. The intent of a Farm Conservation Plan is at a minimum to lower the risk assessment item from high to moderate risk. The Farm Conservation Plan shall be submitted to the Administrator for review and approval.

(c) Farm Conservation Plans. Farm Conservation Plans under this Section shall consider the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) that contains a non-exclusive list of conservation practices (BMPs) to lower the risk from existing and ongoing agriculture to existing functions and values of AHCA and Wetlands. The Clallam Conservation District may be available to provide assistance in the development of a Farm Conservation Plan.

(d) Existing Plans. Those portions of land upon which farm owners or operators have implemented a Dairy Nutrient Management Plan, a Resource Management System plan, or a Conservation Reserve Enhancement Program Plan consistent with conservation practices and management standards that meet the FOTG quality criteria for each natural resource (soil, water, animals, plants, and air) and approved by the Clallam Conservation District or USDA Natural Resources Conservation Service are entitled to a presumption of compliance with the "no harm or degradation" standards described in Subsection (4) of this Section. This would be contingent on these plans not resulting in any high risk agricultural activities on any of the six risk assessment performance standards.

Table 27.12.037(A) Risk Assessment Criteria
(Ratings are based on the lowest conditions)

LOW RISK	MODERATE RISK	HIGH RISK
RIVERS, STREAMS, LAKES, & MARINE WATERS (AHCA). Buffers are measured from Ordinary High Water Mark (OHWM).		
1(a). A year-round 50-foot or greater buffer of native trees and shrubs is maintained with no livestock access.	1(b). A year-round 35 to 50-foot buffer of native trees and shrubs is maintained with no livestock access.	1(c). Less than 35-foot wide buffer of native trees and shrubs is maintained or livestock have access to the buffer.
2(a). Manure application occurs outside 50-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	2(b). Manure application occurs within 35 to 50 foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	2(c). Manure is not applied at rates based on crop nutrient needs or is applied year-round.
WETLANDS & OTHER WATER FEATURES **Water Features include ponds, irrigation ditches, and drainage ditches that are hydro-logically connected to AHCA or wetlands. Buffers are measured from edge of wetland or water feature.**		
3(a). A year-round 50-foot or greater vegetated buffer is maintained between water feature and livestock or cultivation.	3(b). A 35 to 50 foot vegetated buffer is maintained between water feature and livestock or cultivation. Buffer may be utilized for harvesting of forage, including grazing when the water feature is dry if minimum forage height of 3 inches is maintained.	3(c). A less than 35-foot vegetated buffer is maintained between water feature and livestock or cultivation. Buffers are utilized for year round harvesting of forage or grazing, or forage height in buffer is less than 3 inches in height.
4(a). Manure application occurs outside 50-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	4(b). Manure application occurs within 35 to 50 foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	4(c). Manure application occurs within 35 foot buffer, not applied at rates based on crop nutrient needs or is applied year-round.
LIVESTOCK HEAVY USE AREAS **Includes areas where livestock are confined or congregate, such as feeding locations and wet season pasture areas (sacrifice areas) where polluted runoff may pose a risk to water quality. Does NOT apply to barns and sheds.**		
5(a). Livestock heavy use area is located at least 200 feet from AHCAs, Wetlands or Water Features. **AND** Buffer is well-vegetated.	5(b). Livestock heavy use area is located 100 to 200 feet from AHCAs, Wetlands or Water Features. **AND** Buffer is well-vegetated.	5(c). Livestock heavy use area is located less than 100 feet from AHCAs, Wetlands, or Water Features. **AND/OR** Buffer is poorly-vegetated.
MANURE STORAGE **Includes collected liquid manure, solid manure, and bedding.**		
6(a). Manure storage structure is covered with a roof or tarp and located at least 200 feet from AHCAs, Wetlands, or Water Features.	6(b). Manure storage structure is covered with a roof or tarp and located 100 to 200 feet from AHCAs, Wetlands, or Water Features.	6(c). Manure storage is covered but located less than 100 feet from a AHCAs, Wetlands, or Water Features. **OR** Manure storage is within 200 feet of a AHCA, Wetlands, or Water Features and not covered.

(6) Compliance. If the Administrator determines through the review of the Alternate Agriculture Worksheet, Risk Assessment, or the Farm Conservation Plan that an agricultural operations regulated under this section are causing harm or degradation to the functions or values of AHCA or wetlands, then the Administrator will pursue compliance.

(a) It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. This would entail requiring a Farm Conservation Plan as outline in Sections 5(a), 5(b), and 5(c) above. While voluntary compliance is desirable, failure to implement the required Farm Conservation Plan in compliance with this Section is subject to CCC 27.12.055, Enforcement, and Title 20 CCC, Code Compliance, as appropriate.

(b) Clallam County has regulatory authority for critical areas code enforcement and the Department of Ecology has regulatory authority for enforcement of state water quality protection laws. The mechanisms for responding to alleged water quality violations of agricultural origin and the role of the Clallam Conservation District in providing assistance to agricultural owners and operators to correct water quality violations is described in a 1987 Memorandum of Agreement with Ecology and a 1998 Memorandum of Understanding with the County.

(7) Baseline Conditions, Indicators, Monitoring, and Adaptive Management. The purpose of this Section is to establish for enrollees in the Alternate Standards Program baseline conditions, establish monitoring indicators, and to utilize adaptive management.

(a) Existing Baseline Functions and Values. The County will use the following to establish the baseline of existing functions and values for AHCA's and wetlands:

i. Streamkeepers Biological Integrity Scale (B-IBI) stream rating system dated December 2011.

ii. Washington State Department of Ecology Water Quality Assessment 305 Report dated December 2012.

iii. Washington State Department of Ecology 303(d) dated December 21, 2012.

iv. Clallam County Shoreline Inventory and Characterization Report for Portions of Clallam County Draining to the Strait of Juan de Fuca, March 2012.

v. Revised Draft WRIA 20 Inventory and Characterization Report, May 2012.

(b) The County will use the following indicators to analyze the trends of the existing Baseline Functions and Values for AHCA's and wetlands:

i. Stream reach classification changes based on the Streamkeepers Biological Integrity Scale (B-IBI) stream rating system of Healthy; Compromised; Impaired' Highly Impaired' and Critically Impaired.

ii. Change in stream reach or AHCA water quality documented by Streamkeepers of Clallam County.

iii. Removal or addition of a stream reach or AHCA from the Washington State Department of Ecology's 303 (d) list.

iv. Change in stream reach or AHCA water quality documented in the Washington State Department of Ecology's, Washington State Water Quality Assessment 305 Report.

v. Water quality monitoring performed under the Pollution Identification and Correction (PIC) Plan for the Sequim Bay- Dungeness Watershed Clean Water District to strategically and systematically identify and address agricultural sources of pollution.

vi. A downgrade to the Wetland Classification of wetlands adjacent to or hydro-logically connected to existing ongoing agriculture activities.

vii. *Other Data Sources - Reserved*

(c) Monitoring: The Administrator will issue an annual report addressing the implementation of existing, ongoing agriculture at sites participating in the Alternate Standards Program. The report will include the number and location of participants, the Alternate Agriculture Worksheets, the change in AHCA and wetlands native vegetation cover adjacent to agricultural operations authorized per CCC 27.12.037, and StreamKeepers testing data or other functions and values measurable in the vicinity of significant concentration of agricultural operations. If the reporting indicates that AHCA's and Wetlands functions and values are not being impacted in the vicinity of agricultural operation operating under CCC 27.12.037, then the reports will prepared every 5 years thereafter.

(d) Adaptive Management. The Administrator will review the above indicators and monitoring to determine trends in the baseline functions and values in Section 7(a) above. If there is a downward trend, the Administrator will assess whether existing, ongoing agriculture activities subject to this Section are likely contributing to this downward trend and, if so, implement the following steps:

i. Contact participating landowners of existing, ongoing agriculture and provide information to make them aware of the issue of concern (e.g., monitoring results).

ii. If the baseline functions and values do not improve in subsequent monitoring results, the Administrator will seek to determine whether there is an identifiable cause to the problem through site visits, consultations with other agencies, or other means of investigating the cause.

iii. If there is an identifiable issue related to existing, ongoing agriculture, the Administrator will seek compliance under Section 6 above.

iv. If the agricultural operations regulated under CCC 27.12.037 have implemented agricultural BMP's to achieve a low or moderate risk assessment, but the functions and values of the AHCA and wetlands still degrade, this may necessitate a revision to the required modification to the risk assessment performance standards or the enactment of protective measures in this Section to address the problem.

PROPOSED AMENDMENT TO SECTION 27.12.900, DEFINITIONS

Definition of "Agriculture" under Section 27.12.900 (2), Definitions, is amended to read as follows:

(2) "Agriculture" or "agricultural activities" means ~~activities primarily devoted to~~ the use of land for commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable or

animal products, or of berries, grain, hay, straw, turf, seed, cottonwood trees, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, including those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, on-site animal waste storage and disposal, fertilization, the ~~or aquaculture, each having a long-term commercial significance for agriculture; provided, that forest practices regulated under Chapter 76.09 RCW and WAC Title 222 are not included (CCC 31.02.050(3), County-wide Comprehensive Plan).~~ including those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, on-site animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and canals, and normal maintenance, operation and repair of existing serviceable structures, facilities, or improved areas. Activities (like installing drainage tiles) that allow an area to be utilized for agricultural use, or the processing or packing of primarily (i.e. over 50 percent) off-site agricultural materials are not considered agricultural activities.

Section 27.12.900, Definitions, is amended to add the following new definition of existing, ongoing agriculture as follows:

"Existing, On-going agriculture" is agriculture that both: 1) is on lands located within the Agricultural Retention Zoning District and/or on lands that meet the criteria and are enrolled in the Washington State Open Space and Agricultural Current Use Program RCW 84.34.020(2)(b) and (c); and 2) is on lands that have been used for agriculture since June 16, 1992 and have not ceased use for agriculture for more than 5 consecutive years at any one time. Changing the type of agricultural activities being conducted is not considered new or expansion of existing agricultural activity. Agriculture that meets the definition of existing, on-going agriculture on farmed wetlands, farmed wetland pastures, and prior-converted wetlands are allowed to continue subject to the provisions of CCC 27.12 037.

To: Clallam County Planning Commission Sept. 7, 2016

From Protect the Peninsula's Future. Eloise Kailin, Corresponding Secretary
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360 683 6644
eloisekailin@gmail.com

Protect the Peninsula's Future finds the revised changes in language for control of critical areas in on- going and pre-existing agricultural areas to be acceptable and offers suggestion for further improvement as submitted to staff by our attorney, Gerald Steel.

As you will note most of the requested further changes are very minor—some being typos, some providing clarification. On page 3, item 3 the word "and" should be deleted and a comma substituted to clarify that there need not be enrollment in both categories to qualify. On page 4 item 5 a hyphen is removed from hydro-geologically for consistency. See similar concern on page 8.

Page six and seven, the tables, note that substitution of "AHCA" for" riparian" broadens and clarifies the nature of the wetland resources to be protected.

Moderate Risk attainment is of most importance as a practical matter because if this is met the owner is not required to do anything special. In Moderate Risk situations we would like to see vegetated buffers in AHCA areas increased from 35 to 50 ft with no livestock access. For areas of heavy use and manure storage these uses should be located at least 200 ft from the .CA. It should not be necessary to require such large buffers all over the property, just for the heavy use portion..Other options are outlined on page 7 in this table.

On page 8 item (d), adaptive management, baseline readings by definition are permanent and baseline is not changed from its inception.

RECEIVED
SEP 2016
CLALLAM COUNTY DEPT.
OF COMMUNITY DEVELOPMENT

Gray, Steve

From: Gerald Steel [geraldsteel@yahoo.com]
Sent: Saturday, September 10, 2016 7:07 PM
To: Ballard, Greg; Wendt, Brian; Winborn, Mary Ellen; Gray, Steve
Cc: Kailin Eloise
Subject: Fw: PPF Written Comments for Public Hearing before the PC scheduled for Wednesday Sept. 7th at 6:30 p.m. in Room 160 of the Clallam County Courthouse
Attachments: ATT11837066.doc

Greg, Brian, Mary Ellen, and Steve.

I understand you had a problem receiving the email below and its attachment. Eloise forwarded you a copy but I could not open her attachment. So here is a copy of the original email and attachment. Please confirm that you receive this email and that you can open the Word Attachment. Thank you.

Gerald Steel
Attorney at Law
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Olympia WA 98502
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----- Forwarded Message -----
From: Gerald Steel <geraldsteel@yahoo.com>
To: Greg Ballard <gballard@co.clallam.wa.us>; Brian Wendt <bwendt@co.clallam.wa.us>; Mary Ellen Winborn <mwinborn@co.clallam.wa.us>; Steve Gray <sgray@co.clallam.wa.us>
Cc: Kailin Eloise <eloisekailin@gmail.com>
Sent: Monday, September 5, 2016 3:08 PM
Subject: PPF Written Comments for Public Hearing before the PC scheduled for Wednesday Sept. 7th at 6:30 p.m. in Room 160 of the Clallam County Courthouse

Greg, Brian, Mary Ellen, and Steve,

PPF has reviewed the proposed 8-26-16 draft updates to the Clallam Critical Areas Code and provides the attached document in Track Changes with PPF proposed edits. Generally, PPF supports the 8-26-16 draft updates. With the PPF proposed changes, PPF will support the County's work as bringing the County into compliance with the GMA requirements. Most of the PPF proposed edits are either to correct typos or to increase clarity. PPF began by accepting all changes proposed in the 8-26-16 draft, and then adding PPF proposed edits in Track Changes. We hope that you, and the Planning Commission, and the County Commissioners will find our efforts useful. Thank you for giving us the opportunity to comment on the draft.

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From: Ballard, Greg [mailto:gballard@co.clallam.wa.us]
Sent: Friday, August 26, 2016 2:37 PM

To: eloisekalin@gmail.com
Cc: Gerald Steel
Subject: A Public Hearing before the PC is schedule for Wednesday Sept. 7th at 6:30 p.m. in Room 160 of the Clallam County Courthouse

Hi Eloise, here is the latest version of our Critical Areas Update.

There is information also available on our website at the link below.

http://www.clallam.net/LandUse/AGinCA.html

Hope you can attend the September 7th PC Public Hearing on this matter.

Thanks

Greg Ballard
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Proposed Draft Updates to the Clallam County Critical Areas Code, Chapter 27.12 CCC, Critical Areas Code
Last Revised on August 26, 2016
All changes accepted – PPF Track Changes 9-5-16

SUMMARY OF PROPOSED AMENDMENTS

The proposed updates to the Critical Area Code that follow are related to regulation of existing, ongoing agriculture and include:

1. Amendments to Section 27.12.035 (7), Exemptions, applicable to existing, ongoing agriculture.
2. Add a NEW Section (proposed as Section 27.12.037) containing alternate standards for existing, ongoing agriculture in and adjacent to AHCA and wetlands.
3. Amend Section 27.12.900, Definitions, to amend the current definition of "agriculture" and add a new definition for existing, ongoing agriculture.

PROPOSED AMENDMENT TO SECTION 27.12.035 - EXEMPTIONS

Section 27.12.035, Activities not regulated by this chapter – Exemptions, is amended to read as follows:

The following developments are exempt from the requirements of this chapter and do not require a certificate of compliance; provided that best management practices are incorporated where practicable and necessary in order to avoid impacts to critical areas:

(1) Outdoor recreation such as bird watching, boating, bicycling, canoeing, fishing, hiking, horseback riding, hunting, jogging, photography, swimming, and similar activities not requiring clearing or grading.

(2) Emergency work when done to protect life or property and authorized by the County Board of Commissioners. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter.

(3) Construction of wildlife nesting structures not involving clearing or grading.

(4) Education and scientific research projects which will have no damaging effect upon the environment.

(5) Site investigation work (e.g., soil surveys, soil logs) or other related activities necessary for designating critical areas.

(6) The placement of temporary or permanent field stakes or monuments for survey purposes, delineating critical areas and buffers, or marking of property lines or corners pursuant to CCC Title 29.

(7) Existing, -ongoing agriculture as defined in Section 27.12.900 CCC, including related development and activities which do not result in expansion into a critical area or its buffer and which also do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of Section 27.12.037 CCC. New agricultural activities, expansion of existing agricultural activities or development not meeting the definition of existing, on-going agriculture (per Section 27.12.900) shall comply with both the substantive and procedural provisions of this Chapter.

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(8) Normal repair and routine maintenance and operation of residences, landscaping, utilities, roads, trails, irrigation and drainage ditches, and fish ponds which were lawfully constructed, approved, or established prior to the effective date of this chapter; provided, that no expansion results.

(9) Operation and maintenance of all electric facilities, lines, equipment or appurtenances, water and sewer lines; natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances, except for power, water, and sewer substations and pump sites or new utilities within designated frequently flooded areas; provided, that the standards specified in Part Five of this chapter are met. For the purposes of this chapter, operation and maintenance shall include those usual acts necessary for the continued use of existing services in their establish locations. Replacement, expansion, relocation or placement of new utility service lines shall be subject to the standards of this chapter, as applicable.

(10) State forest practices conducted pursuant to Chapter 76.09 RCW. This exemption does not apply to Class IV – general (conversions), or forest practices occurring within designated urban growth areas, or forest practices designated as areas likely to convert through a memorandum of understanding between Clallam County and the Washington Department of Natural Resources, as applicable.

(11) Normal and nondestructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide for a view corridor or removal of non-native vegetation and replacement with native vegetation; provided, that increased erosion or landslide potential or negative impacts to the critical area do not result.

PROPOSED NEW SECTION—ALTERNATE STANDARDS

Section 27.12.037, Alternate standards for existing, ongoing agriculture in and adjacent to AHCA and wetlands, is created to read as follows:

(1) Purpose and Intent. The purpose of this Section is to address two mandates under the Washington State Growth Management Act (GMA), RCW 36.70A:

(a) To protect the existing functions and values in and adjacent to aquatic habitat conservation areas (AHCA) and wetlands, and;
(b) To conserve and protect agricultural lands, specifically those lands with existing, ongoing agricultural activities that are located on or within 200 feet of AHCA's and wetlands regulated under this Chapter.

(2) Applicability. Agriculture activities that do not meet the definition of existing, ongoing agriculture (as defined in CCC 27.12.900) are required to comply with the applicable Wetlands Protection Standards found in CCC 27.12.215 and AHCA Protection Standards found in CCC 27.12.315. Existing, ongoing agriculture activities occurring on or within 200 feet of AHCA's and wetlands may deviate from the protection and buffer standards made applicable to them elsewhere in this Chapter by instead complying with the alternate standards presented in this Section and enrolling in this program. The alternate standards from the AHCA and wetland standards of this Chapter may only be applied to existing, ongoing agriculture activities related to the cultivating of crops, grazing of livestock and the land preparation associated with those agricultural activities.

(3) Enrollment in the Alternate Standards Program for Existing, ~~and~~ Ongoing Agriculture.

(a) Existing, ongoing agriculture operations (as defined by CCC 27.12.900) are required to submit an Alternate Agriculture Worksheet to the Administrator for review and approval to be enrolled into CCC 27.12.037. This worksheet will include a risk assessment to address the criteria shown in Table 27.12.037(A) below.

(b) A new Alternate Agriculture Worksheet is required every time an agricultural operation under the provisions of CCC 27.12.037 changes ownership or changes the agricultural operation in a manner that results in a higher risk assessment found in Table 27.12.037(A) below. The Administrator will conduct an audit of everyone in this program every 5 years.

(4) No Harm or Degradation Standard.

(a) All existing, ongoing agriculture activities must be conducted so as not to cause harm or degradation to the existing functions and values of AHCA's, wetlands, or their associated buffers (the "no harm or degradation" standard). For the purposes of this Section, the phrase "no harm or degradation" means the following:

(i) Compliance with all documented water quality standards consistent with the Washington State Department of Ecology's Water Pollution Control Laws (RCW 90.48).

(ii) Compliance with all applicable Washington State Department of Fish and Wildlife requirements of Hydraulics Code (RCW 77.55) and the Hydraulic Code Rules (WAC 220-110).

(iii) Conducting agricultural activities to avoid high risk activities outlined in Section 4 of this Section.

(iv) No evidence of significant degradation to AHCA's or wetlands regulated under this Chapter that can be directly attributed to adjacent existing, ongoing agriculture activities.

(b) An owner or operator is responsible only for those conditions caused by agricultural activities conducted on behalf of owner or operator and is not responsible for off-site actions of others, natural conditions not related to the agricultural activities, or emergency actions described in CCC 27.12.035(2).

(5) Existing, Ongoing Agriculture Risk Assessment Criteria.

The success of farms and ranches in Clallam County depends in part on good quality soil, water, air and other natural resources. Agricultural activities that incorporate protection of the environment, including critical areas as defined by this chapter, are essential to achieving this goal. Agricultural activities are expected to be conducted in a manner that protects against harm or degradation to the existing functions and values of AHCA, wetlands, and their associated buffers.

The Administrator shall utilize the low, moderate and high risk assessment criteria in Table 27.12.037(A) to evaluate existing, ongoing agriculture within and adjacent to AHCA's and wetlands. Existing, ongoing agricultural activities may have different risk assessment ratings based on the six performance standards and four risk assessment categories—River and Streams, Water Features (wetlands, ponds, and Irrigation/Drainage Ditches); Livestock Heavy Use Areas; and Manure Storage—in Table 27.12.037(A).

The risk assessment criteria in Table 27.12.037(A) address agricultural activities located within AHCA's, wetlands, and their associated minimum standard buffers regulated under this Chapter, and more intensive agricultural activities (i.e. manure storage, livestock heavy use, confinement areas) located within the 200-foot jurisdictional boundary of these critical areas. The risk assessment criteria in Table 27.12.037(A) also address non-regulated ponds and open irrigation/drainage ditches that are hydro-logically connected to AHCA and wetlands, which may provide a means for pollution to cause harm and degradation to AHCA and wetlands.

(a) Low and Moderate Risk Agricultural Activities. Agricultural activities shall be deemed compliant with this Section if they meet the Low or Moderate Risk Assessment Criteria, unless it is determined by the Administrator that they are causing harm or degradation to the existing functions and values of AHCAs or wetlands located on real property owned, leased, or occupied by the person or entity completing the worksheet. If this occurs for one of the six performance standards then the agricultural operation would be required to develop a Farm Conservation Plan to address activities causing harm or degradation. The intent of Farm Conservation Plan is at a minimum to lower the risk assessment for the specific performance standards of concern. The Farm Conservation Plan shall be submitted to the Administrator for review and approval.

(b) High Risk Agricultural Activities. Agricultural activities that receive a high risk assessment rating on any of the six performance standards are required to submit a Farm Conservation Plan to address the high risk activities. The intent of a Farm Conservation Plan is at a minimum to lower the risk assessment item from high to moderate risk. The Farm Conservation Plan shall be submitted to the Administrator for review and approval.

(c) Farm Conservation Plans. Farm Conservation Plans under this Section shall consider the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) that contains a non-exclusive list of conservation practices (BMPs) to lower the risk from existing and ongoing agriculture to existing functions and values of AHCA and Wetlands. The Clallam Conservation District may be available to provide assistance in the development of a Farm Conservation Plan.

(d) Existing Plans. Those portions of land upon which farm owners or operators have implemented a Dairy Nutrient Management Plan, a Resource Management System plan, or a Conservation Reserve Enhancement Program Plan consistent with conservation practices and management standards that meet the FOTG quality criteria for each natural resource (soil, water, animals, plants, and air) and approved by the Clallam Conservation District or USDA Natural Resources Conservation Service are entitled to a presumption of compliance with the "no harm or degradation" standards described in Subsection (4) of this Section. This would be contingent on these plans not resulting in any high risk agricultural activities on any of the six risk assessment performance standards.

Table 27.12.037(A) Risk Assessment Criteria

LOW RISK	MODERATE RISK	HIGH RISK
RIVERS, STREAMS, LAKES, & MARINE WATERS (AHCA). Buffers are measured from Ordinary High Water Mark (OHWM).		
1(a). A year-round 50-foot or greater buffer of native trees and shrubs is maintained with no livestock access. 2(a). Manure application only occurs outside 50-foot buffer only at rates based on crop nutrient needs and only during growing season (generally April-October).	1(b). A year-round 35 ~~to 50~~-foot buffer of native trees and shrubs is maintained with no livestock access. 2(b). Manure ~~application~~ application only occurs ~~within~~ outside 35~~- to 50~~ foot buffer only at rates based on crop nutrient needs and only during growing season (generally April-October).	1(c). Less than 35-foot wide buffer of native trees and shrubs is maintained or livestock have access to the buffer. 2(c). Manure is not applied at rates based on crop nutrient needs or is applied year-round.
WETLANDS & OTHER WATER FEATURES **Water Features include ponds, irrigation ditches, and drainage ditches that are hydro-logically connected to AHCA or wetlands. Buffers are measured from edge of wetland or water feature.**		
3(a). A year-round 50-foot or greater vegetated buffer is maintained between water feature and livestock or cultivation. 4(a). Manure application occurs outside 50-foot buffer only at rates based on crop nutrient needs and only during growing season (generally April-October).	3(b). A ~~35~~ 35~~-to 50~~ foot vegetated buffer is maintained between water feature and livestock or cultivation. Buffer may be utilized for harvesting of forage, including grazing, when the water feature is dry if minimum forage height of 3 inches is maintained. 4(b). Manure application occurs outside ~~within~~ 35~~- to 50~~ foot buffer only at rates based on crop nutrient needs and only during growing season (generally April-October).	3(c). A less than 35-foot vegetated buffer is maintained between water feature and livestock or cultivation, or 35-foot bBuffers are utilized for year round harvesting of forage or grazing, or forage height in 35-foot buffer is less than 3 inches in height. 4(c). Manure application occurs within 35 foot buffer, or manure is not applied at rates based on crop nutrient needs or is applied year-round.
LIVESTOCK HEAVY USE AREAS **Includes areas where livestock are confined or congregate, such as feeding locations and wet season pasture areas (sacrifice areas) where polluted runoff may pose a risk to water quality. Does NOT apply to barns and sheds.**		
5(a). Livestock heavy use area is located at least 200 feet from AHCAs, Wetlands or Water Features. **AND** year-round 50-foot bBuffer is well-vegetated.	5(b). Livestock heavy use area is located at least 100 ~~to 200~~ feet from AHCAs, Wetlands or Water Features. **AND** year-round 50-foot bBuffer is well-vegetated within 400 feet of area.	5(c). Livestock heavy use area is located less than 100 feet from AHCAs, Wetlands, or Water Features. **AND/OR** year-round 50-foot bBuffer is poorly-vegetated within 400 feet of area.
MANURE STORAGE **Includes collected liquid manure, solid manure, and bedding.**		
6(a). Manure storage structure is covered with a roof or tarp and located at least 200 feet from AHCAs, Wetlands, or Water Features.	6(b). Manure storage structure is covered with a roof or tarp and located at least 100 ~~to 200~~ feet from AHCAs, Wetlands, or Water	6(c). Manure storage is covered but located less than 100 feet from a AHCAs, Wetlands, or Water Features.

AND year-round 50-foot buffer is well-vegetated.	Features. AND year-round 50-foot buffer is well-vegetated within 400 feet of structure	**OR** **Manure storage is within 200 feet of a AHCA, Wetlands, or Water Features and not covered.** **OR** **year-round 50-foot buffer is poorly-vegetated within 400 feet of structure**

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(6) Compliance. If the Administrator determines through the review of the Alternate Agriculture Worksheet, Risk Assessment, or the Farm Conservation Plan that an agricultural operations regulated under this section are causing harm or degradation to the functions or values of AHCA or wetlands, then the Administrator will pursue compliance.

(a) It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. This would entail requiring a Farm Conservation Plan as outlined in Section 5(~~a~~b) to ~~and~~ 5(c) above. While voluntary compliance is desirable, failure to implement the required Farm Conservation Plan in compliance with this Section is subject to CCC 27.12.055, Enforcement, and Title 20 CCC, Code Compliance, as appropriate.

(b) Clallam County has regulatory authority for critical areas code enforcement and the Department of Ecology has regulatory authority for enforcement of state water quality protection laws. The mechanisms for responding to alleged water quality violations of agricultural origin and the role of the Clallam Conservation District in providing assistance to agricultural owners and operators to correct water quality violations is described in a 1987 Memorandum of Agreement with Ecology and a 1998 Memorandum of Understanding with the County.

(7) Baseline Conditions, Indicators, Monitoring, and Adaptive Management. The purpose of this Section is to establish for enrollees in the Alternate Standards Program baseline conditions, establish monitoring indicators, and to utilize adaptive management.

(a) Existing Baseline Functions and Values. The County will use the following to establish the baseline of existing functions and values for AHCA's and wetlands:

i. Streamkeepers Biological Integrity Scale (B-IBI) stream rating system dated December 2011.

ii. Washington State Department of Ecology Water Quality Assessment 305 Report dated December 2012.

iii. Washington State Department of Ecology 303(d) dated December 21, 2012.

iv. Clallam County Shoreline Inventory and Characterization Report for Portions of Clallam County Draining to the Strait of Juan de Fuca, March 2012.

v. Revised Draft WRIA 20 Inventory and Characterization Report, May 2012.

(b) The County will use the following indicators to analyze the trends of the existing Baseline Functions and Values for AHCA's and wetlands:

i. Stream reach classification changes based on the Streamkeepers Biological Integrity Scale (B-IBI) stream rating system of Healthy; Compromised; Impaired' Highly Impaired' and Critically Impaired.

ii. Change in stream reach or AHCA water quality documented by Streamkeepers of Clallam County.

iii. Removal or addition of a stream reach or AHCA from the Washington State Department of Ecology's 303 (d) list.

iv. Change in stream reach or AHCA water quality documented in the Washington State Department of Ecology's, Washington State Water Quality Assessment 305 Report.

v. Water quality monitoring performed under the Pollution Identification and Correction (PIC) Plan for the Sequim Bay- Dungeness Watershed Clean Water District to strategically and systematically identify and address agricultural sources of pollution.

vi. A downgrade to the Wetland Classification of wetlands adjacent to or hydro-logically connected to existing, ~~and~~ ongoing agriculture activities.

vii. *Other Data Sources - Reserved*

(c) Monitoring: The Administrator will issue an annual report addressing the implementation of existing, ongoing agriculture at sites participating in the Alternate Standards Program. The report will include the number and location of participants, the Alternate Agriculture Worksheets, the change in ~~riparian~~ AHCA and wetlands cover adjacent to agricultural operations authorized per CCC 27.12.037, and StreamKeepers testing data or other functions and values measurable in the vicinity of significant concentration of agricultural operations. If the reporting indicates that AHCA's and Wetlands functions and values are not being impacted in the vicinity of agricultural operations operating under CCC 27.12.037, then the reports will prepared every 5 years thereafter.

(d) Adaptive Management. The Administrator will review the above indicators and monitoring to determine trends in the ~~baseline~~ functions and values in Section 7(a) above. If there is a downward trend, the Administrator will assess whether existing, ongoing agriculture activities subject to this Section are likely contributing to this downward trend and, if so, implement the following steps:

i. Contact participating landowners of existing, ongoing agriculture and provide information to make them aware of the issue of concern (e.g., monitoring results).

ii. If the ~~baseline~~ functions and values do not improve in subsequent monitoring results, the Administrator will seek to determine whether there is an identifiable cause to the problem through site visits, consultations with other agencies, or other means of investigating the cause.

iii. If there is an identifiable issue related to existing, ongoing agriculture, the Administrator will seek compliance under Section 6 above.

iv. If the agricultural operations regulated under CCC 27.12.037 have implemented agricultural BMP's to achieve a low or moderate risk assessment, but the

functions and values of the AHCA and wetlands still degrade, this may necessitate a revision to the ~~required modification to the~~ risk assessment performance standards or the enactment of protective measures in this Section to address the problem.

PROPOSED AMENDMENT TO SECTION 27.12.900, DEFINITIONS

Definition of "Agriculture" under Section 27.12.900 (2), Definitions, is amended to read as follows:

(2) "Agriculture" or "agricultural activities" means the use of land for commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable or animal products, or of berries, grain, hay, straw, turf, seed, cottonwood trees, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, ~~including those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, on-site animal waste storage and disposal, fertilization, the~~ including those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, on-site animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and canals, and normal maintenance, operation and repair of existing serviceable structures, facilities, or improved areas. Activities (like installing drainage tiles) that allow an area to be utilized for agricultural use, or the processing or packing of primarily (i.e. over 50 percent) off-site agricultural materials are not considered agricultural activities.

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Section 27.12.900, Definitions, is amended to add the following new definition of existing, ongoing agriculture as follows:

"Existing, ~~O~~on-going agriculture" is agriculture that both: 1) is on lands located within the Agricultural Retention Zoning District and/or on lands that meet the criteria and are enrolled in the Washington State Open Space and Agricultural Current Use Program RCW 84.34.020(2)(b) and (c); and 2) is on lands that have been used for agriculture since June 16, 1992 and have not ceased use for agriculture for more than 5 consecutive years at any one time. Changing the type of agricultural activities being conducted is not considered new or expansion of existing agricultural activity. Agriculture that meets the definition of existing, on-going agriculture on farmed wetlands, farmed wetland pastures, and prior-converted wetlands are allowed to continue subject to the provisions of CCC 27.12 037.