



MEMORANDUM
Clallam County Department
of Community Development

Date: July 27, 2016
To: Clallam County Planning Commission
From: Steve Gray, Planning Manager *SG*
Re: Revised Draft Updates to Critical Areas Code, Chapter 27.12, related to regulation of Existing, Ongoing Agriculture

In June, the Planning Commission considered proposed draft updates to the Clallam County Critical Area Code (CAC), Chapter 27.12 CCC. The proposed updates were in response to the Growth Management Hearings Board Order of Noncompliance and Invalidity related to how the County's CAC regulates existing, ongoing agriculture. At the upcoming August 3 meeting, the Department will present and review our recommended revised draft CAC updates (dated July 27, 2016) related to existing, ongoing agriculture—*See Attachment A to this memo.*

Background

The Department held public workshops on May 24 at the Dungeness Schoolhouse (in Sequim) and May 26 in Forks on an earlier May 10, 2016, proposed draft updates to the CAC regarding regulation of existing, ongoing agriculture. The purpose of the workshops was to inform the public of the proposed updates prior to holding a public hearing before the Planning Commission on June 15. Based on public questions/comments at the workshops and input from the Clallam Conservation District (also participated in the public workshops), the Department did not schedule the public hearing before the Planning Commission on June 15. Instead, the Planning Commission held a work session regarding proposed updates.

The focus of the June 15 work session was on a revised draft of critical area code updates dated June 9, 2016 (*See Attachment D*), from the draft code amendments presented at the May public workshops. These June revisions considered general comments and questions from the May workshops and input from the Clallam Conservation District. The latter included suggestions to draft standards that reflect desired outcomes. To address "desired outcomes," the revised June 9th draft incorporated "risk assessment criteria."

At the June 15 meeting, the Planning Commission did receive input from the Clallam Conservation District in addition to several members of the public. Overall, the Commission supported the proposed June 9 CAC code updates (*See Attachment D*) by the Department, but suggested further work such as consolidate and clarify the risk assessment criteria and overall make the document easy to read (e.g., shorten and/or break-up long paragraphs). Based on the direction from the Planning Commission, the Department went to work to further revise the proposed draft amendments presented at the June 15 Commission meeting.

Since the June 15 Commission meeting, the Department also received additional input on the June 9 Draft from the Conservation District (*See Attachment B*) and from Protect Peninsula's Future (*See Attachment C*). The Department considered these comments in preparing the revised draft of updates to the CAC related to existing, ongoing agriculture (*see Attachment A*) for the Planning Commission to consider at the upcoming August 3 meeting.

For additional background, refer to the June 15 meeting materials and minutes. Information is also available on the related County web page for this update item at:

<http://www.clallam.net/LandUse/AGinCA.html> OR from the County Home Page (www.clallam.net) under "Current Issues" (see link to update of requirements for existing, ongoing agriculture in critical areas).

Preparation for Upcoming August 3 Meeting

In preparation for the upcoming meeting, please review the following three attachments to this memo:

Attachment A – Proposed Revised Draft Updates (dated July 28, 2016) to the Critical Area Code related to the regulation of existing, ongoing agriculture as follows:

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

Attachment B – Comments (emailed on July 6 and 15) from the Clallam Conservation District on the prior draft updates (dated June 9) presented to the Planning Commission at their June 15 regular meeting.

Attachment C – Comments from Protect the Peninsula Future (emailed on June 24 and July 1) on the prior draft updates (dated June 9) presented to the Planning Commission at their June 15 regular meeting.

Attachment D – Prior June 9, 2016, Draft Ordinance to add a new section to the Critical Area Code related to existing, ongoing agriculture. **NOTE: Attachment A of this memo represent the latest draft code revisions (dated July 28, 2016) now recommended by the Department.**

Next-Steps

The next-step is to finalize proposed CAC updates to address existing, ongoing agriculture in response to the Growth Hearings Board order and schedule a public hearing before the Planning Commission. The Department would like to obtain input from the Planning Commission on July revised draft updates (*see Attachment A*) to determine any changes and to set a date for a public hearing. If no changes, or minimum changes requested, it would be possible to schedule a public hearing on August 17. However, staff would recommend the hearing be scheduled for the Planning Commission's meeting of September 7 to allow for additional time for public review.

ATTACHMENT A

***Proposed Draft Updates to the Clallam
County Critical Areas Code, Chapter 27.12
CCC, Critical Areas Code
(Revised Last - July 27, 2016)***

***For Review at August 3, 2016 Planning
Commission Meeting***

**Proposed Draft Updates to the Clallam County Critical Areas Code,
Chapter 27.12 CCC, Critical Areas Code (Revised Last - July 28, 2016)
For Review at August 3, 2016 Planning Commission Meeting**

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 administering 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 AHCA and wetland buffer and protection standards. Existing, ongoing agriculture activities occurring on or within 200 feet of AHCA's and wetlands may deviate from the protection and buffer standards elsewhere in this Chapter by 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 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) Meeting documented water quality standards consistent with the Washington State Department of Ecology's Water Pollution Control Laws (RCW 90.48).
 - (ii) Meeting 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 and 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 or 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 hydrologically 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 AHCA's or wetlands. 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 AND STREAMS (AHCA)		
<p>1(a). A year-round 50-foot or greater buffer of native trees and shrubs is maintained with no livestock access.</p> <p>2(a). Manure application occurs outside 50-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).</p>	<p>1(b). A year-round 35 to 50-foot buffer of native trees and shrubs is maintained with no livestock access.</p> <p>2(b). Manure application occurs outside 35 to 50 foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).</p>	<p>1(c). Less than 35-foot wide buffer of native trees and shrubs is maintained or livestock have access to the buffer.</p> <p>2(c). Manure is not applied at rates based on crop nutrient needs or is applied year-round.</p>
<p>WATER FEATURES Includes wetlands, ponds and irrigation/drainage ditches Only applicable to ponds and irrigation/drainage ditches that are hydro-logically connected to AHCA or wetlands</p>		
<p>3(a). A year-round 50-foot or greater vegetated buffer is maintained between water feature and livestock or cultivation.</p> <p>4(a). Manure application occurs outside 50-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).</p>	<p>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.</p> <p>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).</p>	<p>3(c). A less than 35-foot vegetated buffer is maintained between water feature and livestock or cultivation.</p> <p>4(c). Manure application occurs within 35 foot buffer, not applied at rates based on crop nutrient needs or is applied year-round.</p>
<p>LIVESTOCK HEAVY USE AREAS Includes areas where livestock are confined or congregate, such as feeding locations and sacrifice pastures where polluted runoff may pose a risk to water quality. Does NOT apply to barns and sheds.</p>		
<p>5(a). Livestock heavy use area is located 200 feet or more from a water feature or wetland. AND Buffer is well-vegetated.</p>	<p>5(b). Livestock heavy use area is located 100 to 200 feet from a water feature or wetland. AND Buffer is well-vegetated.</p>	<p>5(c). Livestock heavy use area is located less than 100 feet from a water feature or wetland. AND/OR Buffer is poorly-vegetated.</p>
<p>MANURE STORAGE Includes collected liquid manure, solid manure, and bedding.</p>		
<p>6(a). Manure storage structure is covered with a roof or tarp and located at least 200 feet from a water feature or wetland.</p>	<p>6(b). Manure storage structure is covered with a roof or tarp and located at least 100 to 200 feet from a water feature or wetland.</p>	<p>6(c). Manure storage is covered but located less than 100 feet from a water feature or wetland. OR Manure storage is within 200 feet of a water feature or wetland and not covered.</p>

- (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 Section 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 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 of the implementation of existing, ongoing agriculture enrolled under this Section. The report will include the number and location of participants, the Alternate Agriculture Worksheets, the riparian 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 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 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.

ATTACHMENT B

***Clallam Conservation District Comments
(emailed on July 6 and 15) on the prior draft
updates (dated June 9) presented to the
Planning Commission at their June 15
regular meeting.***

From: Joe Holtrop [<mailto:joe.holtrop@clallamcd.org>]
Sent: Wednesday, July 06, 2016 1:26 PM
To: Ballard, Greg
Cc: Meghan Adamire; Jennifer Bond; Ben Smith
Subject: Re: Draft Ordinance

Later today we will have a couple farmers do a test run of the latest draft of the risk assessment we have, just to see if they understand it. We should get something final to you tomorrow.

Meanwhile, attached are our comments and suggested edits for the ordinance language. You might want to build in something about deadlines for completing (and implementing) farm conservation plans, perhaps in the Compliance section?

Joe E. Holtrop
Executive Director
Clallam Conservation District
228 W. First St., Ste. H
Port Angeles, WA 98362
Phone: 360-775-3747
Direct: 360-775-3732
Fax: 360-775-3749
www.clallamcd.org

Email correspondence to conservation district employees creates a public record that is subject to disclosure upon request.

PROPOSED NEW SECTION TO CRITICAL AREAS CODE

27.12.037 CCC Existing and Ongoing Required Agricultural Best Management Practices on Agricultural Lands.

Comment [M1]: Possibly reword: Agricultural Best Management Practices Required for Existing and Ongoing Agricultural Lands

(1) Purpose and Intent. The purpose of this Section is to address two mandates under the Growth Management Act (GMA): (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 and ongoing agricultural activities that are located within 200 feet of AHCA's and wetlands regulated under this Chapter.

(2) Applicability. As defined in CCC 27.12.900, existing and ongoing agricultural activities occurring on or within 200 feet of AHCA's and wetlands may deviate from the protection standards (including standard buffers) of this Chapter by complying with the alternate standards presented in this Section. The alternate standards from the AHCA and wetland standards of this Chapter may only be applied to existing and ongoing agricultural activities related to the cultivating of crops, grazing of livestock and the land preparation associated with those agricultural activities. Agricultural activities that do not meet the definition of existing and ongoing agriculture are required to comply with the other provisions of this Chapter, including but not limited to the applicable AHCA and wetland buffers and protection standards.

(3) No Harm or Degradation Standard.

(a) All existing and 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) Meeting documented water quality standards consistent with the Washington State Department of Ecology's water pollution control laws.
- (ii) Meeting all applicable Washington State Department of Fish and Wildlife requirements of Chapter 77.55 RCW (Hydraulics Code) and Chapter 220-110 WAC (Hydraulics Code Rules).
- (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 and ongoing agricultural activities.

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

(4) Agricultural Activities Risk Assessment Criteria

The well-being 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

Comment [M2]: Replace well-being with another word, perhaps prosperity or success.

harm or degradation to the existing functions and values of AHCA, wetlands, and their associated buffers. Although the risk assessments are focused on agricultural activities located within the minor buffers (as defined in Section 27.12.900(39) CCC) associated with AHCA and regulated wetlands, they also apply to some more **intensive agricultural activities** (i.e. **manure storage or confinement areas**) located within the 200 foot jurisdictional boundary of these critical areas. The risk assessment also includes other non-regulated ponds and open irrigation ditches that are connected to AHCA that may provide a means for pollution to enter water bodies and cause harm and degradation.

Comment [M3]: Leave out. seems unnecessary to call out these two BMP's

The following table provides a list of low, moderate, ~~and high risk, and very high risk assessments~~ **risk assessments** for agricultural activities ~~for Livestock Waste Management, Livestock Containment Areas, Pasture and Crop Management, and Water Features (Streams, Open Irrigation Ditches, Ponds, and Wetlands)~~. An agricultural operation may have different risk assessment ratings for each of the ~~17 items found in the~~ four categories.

(a) (Insert Table) - brief instructions on how to use table needed?

(b) ~~Low-Risk and Moderate Risk~~ Agricultural Activities

(i) ~~Low- and moderate risk a~~**Risk Agricultural Activities.** ~~Agricultural Activities~~ shall be deemed compliant with this Section if they meet the Low ~~or Moderate~~ Risk Assessment Criteria.

(e) ~~Moderate Risk Agricultural Activities:~~

~~Moderate Risk Agricultural Activities. Agricultural activities that rate moderate risk may shall be deemed compliant with this section unless it is determined that they are causing harm or degradation to the existing functions and values in and adjacent to AHCA's, wetlands, and their associated buffers. If this occurs these agricultural operations would be required to develop a Farm Conservation Plan to address activities causing harm or degradation, prepare an agricultural Best Management Practices (BMPs) Plan to address the area of concern. The BMPs plan would be based on the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) that contains a non-exclusive list of conservation practices (BMPs) to guide implementation of the expectations of this section. The BMP Plan would have to be submitted to Clallam County Department of Community Development (DCD) for review and approval. The intent of Farm Conservation Plan is at a minimum to lower the risk assessment item from high to medium risk. The Clallam Conservation District may be available to provide assistance in the development of a Farm Conservation Plan. The Farm Conservation Plan shall be submitted to DCD for review and approval.~~

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(i)

(d)(c) ~~High Risk and Very High Risk~~ Agricultural Activities:

High Risk Agricultural Activities. Agricultural activities that receive a high risk ~~or very high risk~~ assessment rating on any of the ~~17~~**four five** risk assessment items 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 medium risk. The Clallam Conservation District may be available to provide **technical** assistance in the development of a Farm Conservation Plan. The Farm Conservation Plan shall be submitted to DCD for review and approval.

Comment [M4]: Move all this up under Low and Moderate Risk Ag Activities

(e)(d) Those portions of land upon which **farm** owners or **farm** operators have implemented a Dairy Nutrient Management Plan, ~~or~~ a Resource Management System

plan, or a Conservation Reserve Enhancement ~~Plan~~ ~~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 (3) of this Section. The plan must address all AHCA and wetlands on the property, as well as all upland areas within the owner's control that could potentially adversely impact the AHCA.

(e) Such presumption of compliance may be rebutted and enforcement commenced as described in Subsection (5) below if the County obtains credible evidence that the agricultural activities are not meeting the "no harm" or degradation standards of Subsection (3) of this Section. To be entitled to this presumption, the owner or operator shall provide the County with documented evidence of implementation of those elements of the approved plan that are relevant to the resource impact at issue.

(5) Compliance. It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. The County will utilize the following methods for determining compliance with the performance and protection standards of this Section:

(a) If DCD receives information through monitoring data or a complaint that an agricultural operation regulated under this section are potentially causing harm or degradation to the functions or values of AHCA, wetlands, or their associated buffers, then DCD ~~or the Clallam Conservation District~~ will determine if the agricultural operation regulated under this section is the likely cause. If the agricultural activity is determined to be causing the harm or degradation to the functions or values of AHCA, wetlands, or their associated buffers then ~~a~~ the risk assessment table will be completed to address the specific issue of the monitoring data or complaint.

Comment [M5]: Who will do the risk assessment...DCD, CCD, landowner???

~~If the risk assessment rating is medium, the agricultural operation is required to prepare an agricultural BMP's to address the specific issue of concern. The BMP Plan would have to be submitted to DCD for review and approval.~~

If the risk assessment rating is high ~~or very high risk activity~~, a Farm Conservation Plan would be required to address the specific high risk activities.

~~The BMP Plan and Farm Conservation Plan are both encouraged to be developed by the Clallam Conservation District.~~ While voluntary compliance is desirable, failure to implement the required ~~BMP Plan or~~ 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.

(c) The County will implement the Pollution Identification & Correction Plan for the Sequim Bay-Dungeness Watershed Clean Water District (December 2014 or as later amended), to strategically and systematically identify and address agricultural sources of pollution.

(6) **Baseline Conditions and Monitoring and Adaptive Management.** The implementation of the intent of this Section shall be subject to establish baseline conditions, to 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) **Monitoring Indicators.** The County will use the following indicators to monitor trends in the baseline:

- 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 WA 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.
- vi. A downgrade to the Wetland Classification of wetlands adjacent to or hydrologically connected to existing and ongoing agricultural activities.
- vii. *Other Data Sources - Reserved*

(c) **Adaptive Management.** The Administrator will review the above monitoring indicators to determine trends in the baseline functions and values in Section 6(a) above. If there is a downward trend, the Administrator will assess whether existing and ongoing agriculture activities subject to this Section are likely contributing to this downward trend and, if so, implement the following steps:

- i. Contact landowners of existing and 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 and ongoing agriculture, the Administrator will seek compliance under Section 5 above.
- iv. If the agricultural operations regulated under CCC 27.12.037 have implemented agricultural BMP's to achieve a low or medium risk assessment, but the functions and values of the AHCA and wetlands still degrade, this may necessitate a revision to the required a modification to the risk assessment performance standards or the enactment of protective measures in this Section to address the problem.

Ballard, Greg

From: Joe Holtrop <joe.holtrop@clallamcd.org>
Sent: Friday, July 15, 2016 12:14 PM
To: Ballard, Greg
Cc: Meghan Adamire; Jennifer Bond
Subject: CAO risk assessment worksheet
Attachments: CAO Risk Assessment worksheet_7-12-16.xlsx

Greg,

Sorry about the delays on this, but we've had difficulty getting feedback from board members and farmers. So, we'll just provide you with what we have for the risk assessment worksheet.

Joe E. Holtrop

Executive Director

Clallam Conservation District

228 W. First St., Ste. H

Port Angeles, WA 98362

Phone: 360-775-3747

Direct: 360-775-3732

Fax: 360-775-3749

www.clallamcd.org

Email correspondence to conservation district employees creates a public record that is subject to disclosure upon request.

Clallam County Critical Areas Code Agricultural Exemption Risk Assessment Worksheet

LITTLE TO NO RISK	MODERATE RISK	HIGH RISK
STREAMS & RIVERS		
A year-round 50-foot or greater buffer of native trees and shrubs is maintained with no livestock access.	A year-round 35 to 50-foot buffer of native trees and shrubs is maintained with no livestock access.	Less than 35-foot wide buffer of native trees and shrubs, AND/OR Livestock have access to buffer.
IRRIGATION DITCHES, DRAINAGE DITCHES and PONDS		
A year-round 35-foot or greater vegetated buffer is maintained between water feature and livestock, manure application, or cultivation. Manure application occurs outside 35-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	A 35-foot vegetated buffer is maintained when water is present in water feature. Buffer may be utilized for harvesting of forage, including grazing when water feature is dry if minimum forage height of 3 inches is maintained. Manure application occurs outside 35-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	A less than 35-foot vegetated buffer is maintained between water feature and livestock, manure application, and cultivated ground. Manure is not applied at rates based on crop nutrient needs AND/OR is applied year-round.
WETLANDS		
A year-round 35-foot vegetated buffer is maintained between wetland and livestock, manure application, or cultivation. Manure application occurs outside 35-foot buffer at rates based on crop nutrient needs and only during growing season (generally April-October).	A 35-foot vegetated buffer is utilized for harvesting of forage, including grazing during the dry season and a minimum forage height of 3 inches is maintained.	Buffer is less than 25 feet. OR Livestock have access to wetland buffer during the wet season. OR Forage height in buffer is harvested to less than 3 inches during the dry season.
LITTLE TO NO RISK	MODERATE RISK	HIGH RISK
LIVESTOCK HEAVY USE AREAS		
Includes areas where livestock are confined or congregate, such as feeding locations and sacrifice pastures where polluted runoff may pose a risk to water quality. Does NOT apply to barns and sheds.		
Livestock heavy use area is located 200 feet or more from a water feature or wetland. AND Buffer is well vegetated.	Livestock heavy use area is located less than 200 feet from a water feature or wetland. AND Buffer is well vegetated.	Livestock heavy use area is located less than 100 feet from a water feature or wetland. AND/OR Buffer is poorly vegetated .
MANURE STORAGE		
Includes collected liquid manure, solid manure, and bedding.		
Manure storage structure is covered with a roof or tarp and located at least 200 feet from a water feature or wetland.	Manure storage structure is covered with a roof or tarp and located at least 100 feet from a water feature or wetland.	Manure storage is covered but located less than 100 feet from a water feature or wetland. OR Manure storage is within 200 feet of a water feature or wetland and not covered.

Attachment C

***Protect the Peninsula Future Comments
(emailed on June 24 and July 1) on the prior
draft updates (dated June 9) presented to
the Planning Commission at their June 15
regular meeting.***

Ballard, Greg

From: Gerald Steel <geraldsteel@yahoo.com>
Sent: Friday, July 01, 2016 12:14 PM
To: Wendt, Brian; Gray, Steve; Ballard, Greg
Cc: 'Eloise Kailin'
Subject: Ag/CAO Update

Brian, Steve, and Greg,

Thank you for the clarifications you provided for the Ag/CAO Update in our telephone conference today where I represented PPF. Perhaps the most fundamental issue discussed was how the program would be implemented with respect to farmers. I suggested that using the program should require signing up for the program and providing risk assessment information and location information. So a farmer must either use standard buffers or actually sign up for the program. I suggested that this gave the County a good enforcement position because, if there is a downward trend found in monitoring, looking at an aerial photo can establish if standard buffers are being used and, if not, then the person can be sent an out-of-compliance letter if they are not signed up for the program. Meanwhile, in looking for the source of the downward trend, the Staff can give special attention to those signed up for the program who have activities with high or medium risk.

Perhaps the County can format its informational mailing to potential participants so that the tax payer name and address and P-number(s) are listed and will be returned to the County when a farmer signs up for the program so that participants' parcels can be mapped.

As I stated in our telephone conversation, I think you are making good progress and are using a good framework.

Gerald Steel PE
Attorney at Law
7303 Young Rd. NW
Olympia WA 98502
360.867.1166

From: Gerald Steel [<mailto:geraldsteel@yahoo.com>]
Sent: Friday, June 24, 2016 3:57 PM
To: Wendt, Brian
Subject: RE: PPF v. Clallam County - Extension of Time?

Brian,

I have reviewed the documents you sent me on June 22 and submit the attached proposed edits on behalf of PPF. If you have any questions regarding the purpose of any of our proposed edits, I am available next Monday or Friday to clarify why the edits (or substitute changes) are needed.

In my email to you on June 9, 2016, I stated, "Before PPF signs off on a further 90-day extension request, we would like to see some proposed code language that addresses the monitoring and adaptive management requirements of the GMA." I think you have a reasonable proposal regarding benchmarks and adaptive management but you have not set a minimum standard for monitoring. To that end, we suggest a new subsection CCC 27.12.037(6)(c) that sets a minimum standard for monitoring for streams and significant wetlands that could be impacted by use of CCC 27.12.037. If the County cannot monitor certain streams and significant wetlands then we believe the exemption should not be available for existing, ongoing agriculture that could impact those streams and wetlands.

We have proposed, for clarity, that the term "existing and ongoing agriculture" be replaced globally with the term "existing, ongoing agriculture" because the term "existing and ongoing agriculture" could be assumed to include existing agriculture and ongoing agriculture.

The other necessary major change we propose is that DCD approvals under CCC 27.12.037 require renewals to remain valid. We propose renewal every three years. *See* our proposed new subsection CCC 27.12.037(4)(g).

In your proposed new definition in CCC 27.12.900 we propose a significant edit: "Agriculture that meets the definition of existing, on-going agriculture on farmed wetlands, farmed wetland pastures, and prior-converted wetlands is allowed to continue subject to the provisions of CCC 27.12.037." The Court has ruled that such existing agriculture must be reasonably regulated and CCC 27.12.037 provides for reasonable regulation for such existing, on-going agriculture.

Let me know your response to the specific items discussed above before PPF signs off on the proposed Fourth Time Extension. I will be available next week on Monday and Friday. Thank you.

Gerald Steel PE
Attorney at Law
7303 Young Rd. NW
Olympia WA 98502
360.867.1166

27.12.035(7) Existing, ~~and~~ on-going 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, ~~and~~ on-going agriculture (per Section 27.12.900) shall comply with both the substantive and procedural provisions of this Chapter.

27.12.900 – "Existing, ~~and~~ 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 ~~shall include those 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. ~~The c~~Changing the type of agricultural activities being conducted ~~on lands meeting the definition on existing and agriculture~~ is not considered new or expansion of existing agricultural activities. ~~In addition, the parcels are required to be located within the Agricultural Retention Zoning District or meet the criteria of the Washington State Open Space and Agricultural Current Use Program RCW 84.34.020(2)(b) and (c).~~ Agriculture ~~al activities that meets~~ the definition of existing, ~~and~~ on-going agricultural activities ~~on farmed wetlands, farmed wetland pastures, and prior-converted wetlands are allowed to continue and shall comply with the Best Management Practices outline below to the maximum extent practicable. Agricultural that meet the definition of existing and on-going agricultural activities shall be~~ subject to the provisions of CCC 27.12.037.

Proposed new definition of Agriculture to be added to Section 27.12.900(2) CCC:

"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 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 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 are not considered agricultural activities.

Comment [O1]: This definition should be modified so it clearly does not include processing or packing of off-site agricultural materials

Ordinance _____

Amending Clallam County Code chapter 27.12 Critical Areas to add a new section regarding

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section .xxx. ~~Alternate standards for Existing, and ongoing required agricultural best management practices on agricultural in and adjacent to aquatic habitat conservation areas (AHCA) and wetlands-lands, is created to read as follows:~~

(1) Purpose and Intent. The purpose of this section is to address two mandates under the Growth Management Act (GMA):

(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 ~~and~~ ongoing agricultural activities that are located ~~on or~~ within 200 feet of AHCA and wetlands regulated under this chapter.

(2) Applicability. ~~As defined in CCC 27.12.900, Existing, and ongoing agricultural activities (as defined in CCC 27.12.900) occurring on or within 200 feet of AHCA and wetlands may deviate from the protection standards (including standard buffers) of elsewhere in this chapter by complying with the alternate standards presented in this section. The alternate standards from the AHCA and wetland standards of this chapter may only be applied to existing, ongoing agricultural activities related to the cultivating of crops, grazing of livestock, and the land preparation associated with those agricultural activities. Agricultural activities that do not meet the definition of existing, and ongoing agriculture activities are required to comply with the other provisions-sections of this Chapter, including but not limited to the applicable AHCA and wetland buffers and protection standards.~~

(3) No harm or degradation standard.

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

(i) Meeting ~~documented water quality standards~~ consistent with the Washington State Department of Ecology water pollution control laws.

(ii) Meeting all applicable Washington State Department of Fish and Wildlife requirements of Chapter 77.55 RCW (Hydraulics Code) and Chapter 220-110 WAC (Hydraulics Code Rules).

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

(iv) Providing evidence of no significant harm or degradation to

AHCA or wetlands regulated under this chapter that can be directly attributed to adjacent existing ~~and~~ ongoing agricultural activities.

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

(4) Agricultural activities risk assessment criteria. The well-being 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 and wetlands. Although the risk assessments are focused on agricultural activities located within the minor new development buffers outlined in Tables 5 of Section 27.12.215(1)(a) CCC and Table 6 of Section 27.12.315(1)(a) CCC associated with regulated wetlands and AHCA, they also

Comment [01]: Please reference where these standards are found

apply to some more intensive agricultural activities (i.e. manure storage or confinement areas) located within the 200 foot jurisdictional boundary of these critical areas. The risk assessment also includes other non-regulated ponds and open irrigation ditches that are connected to AHCA that may provide a means for pollution to enter water bodies and cause harm and degradation.

The following table provides a list of low, moderate, and high-risk assessments for agricultural activities for livestock waste management, livestock containment areas, pasture and crop management; and water features (streams, open irrigation ditches, ponds, and wetlands). An agricultural operation may have different risk assessment ratings for each of the 17 items found in the 4 categories.

(a) Agricultural operation environmental risk assessment tables.

(i) LIVESTOCK WASTE

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
No on-farm storage	Manure collected from pasture and confinement areas for proper storage and use	Year-round pasturing or daily spreading of livestock wastes	Livestock wastes not collected or spread
On-farm storage	Manure pile covered (rainfall and runoff diverted) and stored on a solid base (weafers)	Manure partially covered, on slightly permeable soils; runoff diverted to filter strips	Manure not covered; runoff not collected
Storage location	Manure pile located more than 200 feet from wetlands, streams or open irrigation ditches	Manure pile located 100 to 200 feet from wetlands, streams, or open irrigation ditches	Manure Pile located within 100 feet of wetlands, streams or open irrigation ditches

(ii)

LIVESTOCK CONFINEMENT AREA MANAGEMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Proximity of confinement area to surface water	Confinement Areas more than 200 feet from wetlands, streams, or open irrigation ditches	Confinement Areas 100 to 200 feet from wetlands, streams, or open irrigation ditches	No confinement or Confinement Areas less than 100 feet from wetlands, streams, or open irrigation ditches
Livestock water source	Stock water in troughs (overflow from tanks kept clean, diverted into drywell, grassy area, etc.) or moved or restricted access	Controlled livestock access to streams, open irrigation ditches, wetlands, and ponds	Livestock use unrestricted access to wetlands, streams, or irrigation ditches for stock water
Surface water diversion	All surface water and roof runoff water is diverted away from confinement area; fully covered (roof) or runoff from surface area diverted to waste storage	Most surface and roof run-off diverted around confinement areas; manure collected regularly; runoff directed to 100-foot minimum filter strip (grassy/vegetated)	Most surface and roof run-off runs through confinement areas; manure is not/rarely collected
Cleaning and scraping	Manure collected regularly (every 1-3 days) and stored in a dry, covered location	Manure cleaned at least quarterly, monthly during rain season	Manure not/rarely cleaned
Footing in confinement area	Area is not/rarely muddy; proper footing allows year round access for regular cleaning and maintenance	Area has well-drained soils, but mud during winter months, makes manure removal/maintenance difficult	Poor footing (native soil) and area cannot be cleaned because of mud

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(iii) PASTURE AND CROP MANAGEMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Stocking rate	Stocking rate managed to balance forage availability with livestock needs	Stocking rate exceeds pasture production up to 50% of growing season	Stocking rate exceeds pasture production majority of growing season
Pasture and soil condition	3-4" minimum stubble height in pasture and adjacent to open water; greater than 100% grazable forage	2-3" minimum stubble height in pasture and adjacent to open water; at least 80% grazable forage; less than 20% bare ground; some soil compaction evident; no noxious weeds or	Less than 2" minimum stubble height in pasture and adjacent to open water; less than 80% grazable forage; greater than 20% bare ground with compacted soil; noxious weeds or
Fertility management	Fertilizer or manure applications based on soil or plant tissue tests	Crop nutrients (both organic and inorganic) applied at agronomic rates and times recommended for each crop during growing season	Manure spread within 50 feet of streams or open ditches; liquid manure applied on bare, frozen or snow-covered
Farm chemicals -- pesticides, insecticides, and herbicides	Farm chemicals used as part of an integrated management plan, including record keeping	Applied consistent with the chemical container labels and all applicable Federal and State laws and regulations	Measures rarely or never taken to control pests or weeds; chemicals used without following
Seasonal management	Livestock excluded from pastures while soils are saturated or forage is dormant	Livestock allowed on well-drained pasture in winter, but excluded from seasonally wet areas	Livestock allowed year-round free range throughout pasture

Comment [O2]: How can one have greater than 100%?

(iv) WATER FEATURES (STREAMS, OPEN IRRIGATION DITCHES, PONDS, AND WETLANDS)



RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Livestock access	Livestock do not have access to above referenced water features. Vegetated buffers are 50 feet or greater in width	Livestock do not have access to the above referenced water features; vegetated buffers are 35 to 50 feet in width	Livestock have unrestricted access to the above referenced water features. Vegetated buffers are less than 35 feet in width
Stream crossings	Animals do not have to cross stream or open irrigation ditch, or livestock use crossings, such as a culvert or bridge, that does not impact the stream	Livestock infrequently cross streams or open irrigation ditch at one, controlled location; minimal damage to stream banks and stream channel	Livestock cross the stream and open irrigation ditch on a regular basis

Riparian areas	Healthy riparian buffer of native trees and shrubs at least 50 feet in	Buffer consisting of only grass or other herbaceous plants or	Riparian buffer less than 35 feet in width; above referenced water features
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RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
	width	and shrubs 35 to 50 feet in width; may include 15 foot wide hedgerows	have bare and exposed soil
Water quality	Above referenced water features appears clean and is not subject to frequent algae blooms	Above referenced water features sometimes appears murky, especially after storms, periodic algae blooms	Above referenced water features exhibits poor water quality, such as frequent algae growth and murkiness

(b) Low-risk agricultural activities shall be deemed compliant with this section if they meet the low risk assessment criteria.

(c) Moderate risk agricultural activities may be compliant with this section unless it is determined that they are causing harm or degradation to the existing functions and values in and adjacent to AHCA's and wetlands. If this occurs these agricultural operations would be required to prepare an agricultural best management practices (BMPs) plan to address the area of concern. The BMPs plan would be based on the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) that contains a non-exclusive list of conservation practices (BMPs) to guide implementation of the expectations of this section. The BMP Plan would have to be submitted to the Clallam County Department of Community Development (DCD) for review and approval.

Comment [03]: Specify who is responsible for determination

(d) High risk agricultural activities on any of the 17-risk assessment items are required to submit a Farm Conservation Plan to address the high-risk activities. The intent of the Farm Conservation Plan is, at a minimum, to lower the risk assessment item from high to medium. The farm conservation plan shall include the following: name of owner, parcel numbers, number of acres in agriculture; description of the agricultural operation; length of time the property has been in continual agriculture (no lapse greater than 5 years since 1992); number and type of animals being raised; types of crops being raised; general fertilizer (i.e. manure or commercial fertilizers), type and extent of existing vegetation, especially native vegetation; pesticides, insecticides, and herbicides being utilized; a site map showing the agricultural activities, access roads, and buffer and riparian areas in and adjacent to AHCA's and wetlands; existing fence locations; and proposed BMPs to protect the functions and values of AHCA's and wetlands. The site plan should focus on the areas within 200 feet of AHCA's and wetlands regulated under this Chapter. The Clallam Conservation District may be available to provide technical assistance in the development of a Farm Conservation Plan that shall be submitted to DCD for review and approval.

(e) Those portions of land upon which owners or farm operators have implemented a Dairy Nutrient Management Plan or a Resource Management System Plan or Conservation Reserve Enhancement 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 (3) of this section if there are no high risk agricultural activities on any of the 17-risk assessment items. The plan must address all AHCA's and wetlands on the property, as well as all upland areas within the owner's control that could potentially adversely impact the AHCA.

(e)–

(f) Such presumption of compliance may be rebutted and enforcement commenced as described in subsection (5) below if the County obtains credible evidence that the agricultural activities are not meeting the "no harm or degradation" standards of subsection (3) of this section. To be entitled to this presumption, the owner or operator shall provide the County with documented evidence of implementation of those elements of the approved plan that are relevant to the resource impact at issue.

Comment [04]: Does this mean that owners and operators do not get the presumption in subsection (e) above unless such documentation is submitted? This should be clarified

— All DCD approvals under this section expire after 3 years and one month before expiration. DCD shall notify owners or operators what must be done to continue to be in compliance with this section.

(g)–

(f)

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(5) Compliance. It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. The County will utilize the following methods for determining compliance with the performance and protection standards of this section:

(a) If DCD receives information through monitoring data or a complaint that agricultural operations regulated under this section are potentially causing harm or degradation to the functions or values of AHCA or wetlands, then ~~DCD or the Clallam Conservation District~~ will determine if the agricultural operation regulated under this section is the likely cause. If the agricultural activity is determined to be causing the harm or degradation to the functions or values of AHCA or wetlands then a risk assessment will be completed to address the specific issue of the monitoring data or complaint.

Comment [05]: Where as the DCD can accept evidence or analysis from the Clallam Conservation District, it remains DCD's obligation to make the determination.

If the risk assessment rating is medium, the agricultural operation is required to prepare an agricultural BMP to address the specific issue of concern. The BMP Plan would have to be submitted to DCD for review and approval.

If the risk assessment rating is high risk activity, a Farm Conservation Plan would be required to address the specific high risk activities.

The BMP Plan and Farm Conservation Plan are both encouraged to be developed ~~by~~ **with assistance from** the Clallam Conservation District. While voluntary compliance is desirable, failure to implement the required BMP Plan or 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.

(c) The County will implement the Pollution Identification & Correction Plan for the Sequim Bay-Dungeness Watershed Clean Water District (December 2014 or as later amended), to strategically and systematically identify and address agricultural sources of pollution.

(6) Baseline Conditions and Monitoring and Adaptive Management. The implementation of the intent of this Section shall be subject to establish baseline conditions, to establish monitoring indicators, and to utilize adaptive management.

(a) The County will use the following to establish the baseline of existing functions and values for AHCA 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 dated March 2012.
- (v) Revised Draft WRIA 20 Inventory and Characterization Report dated May 2012.

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(b) The County will use the following indicators to monitor trends in the baseline:

- (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 303 (d) list.
- (iv) Change in stream reach or AHCA water quality documented in the Washington State Department of Ecology, 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.

(vi) A downgrade to the wetland classification of wetlands adjacent to or hydrologically connected to existing ~~and~~ ongoing agricultural activities.

(vii) *Other Data Sources – Reserved*

~~(c) Monitoring. At least every three years, monitoring data will be collected for every stream and significant wetland that could be impacted by existing, ongoing agriculture.~~

~~(de) Adaptive Management. At least annually, t~~he Administrator will review the above monitoring indicators to determine trends in the baseline functions and values in Section 6(a) above. If there is a downward trend, the Administrator will assess whether existing ~~and~~ ongoing agriculture activities subject to this Section are likely contributing to this downward trend and, if so, implement the following steps:

(i) Contact landowners of existing ~~and~~ 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 relating to existing ~~and~~ ongoing agriculture, the Administrator will seek compliance under Section 5 above.

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

ATTACHMENT D

**Prior Draft Ordinance (dated June 9)
containing proposed new section on
existing and ongoing agriculture
presented to the Planning Commission
on June 15, 2016**

***Note: See Attachment A
for proposed revised
standards.***

Amending Clallam County Code chapter 27.12 Critical Areas to add a new section regarding

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section .xxx, Existing and ongoing required agricultural best management practices on agricultural lands, is created to read as follows:

(1) Purpose and Intent. The purpose of this section is to address two mandates under the Growth Management Act (GMA):

(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 and ongoing agricultural activities that are located within 200 feet of AHCA and wetlands regulated under this chapter.

(2) Applicability. As defined in CCC 27.12.900, existing and ongoing agricultural activities occurring on or within 200 feet of AHCA and wetlands may deviate from the protection standards (including standard buffers) of this chapter by complying with the alternate standards presented in this section. The alternate standards from the AHCA and wetland standards of this chapter may only be applied to existing, ongoing agricultural activities related to the cultivating of crops, grazing of livestock, and the land preparation associated with those agricultural activities. Agricultural activities that do not meet the definition of existing and ongoing agriculture are required to comply with the other provisions of this Chapter, including but not limited to the applicable AHCA and wetland buffers and protection standards.

(3) No harm or degradation standard.

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

(i) Meeting documented water quality standards consistent with the Washington State Department of Ecology water pollution control laws.

(ii) Meeting all applicable Washington State Department of Fish and Wildlife requirements of Chapter 77.55 RCW (Hydraulics Code) and Chapter 220-110 WAC (Hydraulics Code Rules).

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

(iv) Providing evidence of no significant harm or degradation to AHCA or wetlands regulated under this chapter that can be directly attributed to adjacent existing and ongoing agricultural activities.

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

(4) Agricultural activities risk assessment criteria. The well-being 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 and wetlands. Although the risk assessments are focused on agricultural activities located within the minor new development buffers outlined in Tables 5 of Section 27.12.215(1)(a) CCC and Table 6 of Section 27.12.315(1)(a) CCC associated with regulated wetlands and AHCA, they also

apply to some more intensive agricultural activities (i.e. manure storage or confinement areas) located within the 200 foot jurisdictional boundary of these critical areas. The risk assessment also includes other non-regulated ponds and open irrigation ditches that are connected to AHCA that may provide a means for pollution to enter water bodies and cause harm and degradation.

The following table provides a list of low, moderate, and high-risk assessments for agricultural activities for livestock waste management, livestock containment areas, pasture and crop management; and water features (streams, open irrigation ditches, ponds, and wetlands). An agricultural operation may have different risk assessment ratings for each of the 17 items found in the 4 categories.

(a) Agricultural operation environmental risk assessment tables.

(i) LIVESTOCK WASTE

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
No on-farm storage	Manure collected from pasture and confinement areas for proper storage and use	Year-round pasturing or daily spreading of livestock wastes	Livestock wastes not collected or spread
On-farm storage	Manure pile covered (rainfall and runoff diverted) and stored on a solid base (preferably concrete)	Manure partially covered; on slightly permeable soils; runoff diverted to filter strip (grassy/vegetated areas)	Manure not covered; runoff not collected
Storage location	Manure pile located more than 200 feet from wetlands, streams or open irrigation ditches	Manure pile located 100 to 200 feet from wetlands, streams, or open irrigation ditches	Manure Pile located within 100 feet of wetlands, streams or open irrigation ditches

(ii) LIVESTOCK CONFINEMENT AREA MANAGEMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Proximity of confinement area to surface water	Confinement Areas more than 200 feet from wetlands, streams, or open irrigation ditches	Confinement Areas 100 to 200 feet from wetlands, streams, or open irrigation ditches	Confinement Areas less than 100 feet from wetlands, streams, or open irrigation ditches
Livestock water source	Stock water in troughs (overflow from tanks kept clean, diverted to dry well, grassy area, etc.) on paved or protected areas	Controlled livestock access to streams, open irrigation ditches, wetlands, and ponds	Livestock use unrestricted access to wetlands, streams, or irrigation ditches for stock water
Surface water diversion	All surface water and roof runoff water is diverted away from confinement area; fully covered (roof) or runoff from surface area diverted to waste storage area	Most surface and roof run-off diverted around confinement areas; manure collected regularly; runoff directed to filter strip (grassy/vegetated areas)	Most surface and roof run-off runs through confinement areas; manure is not/rarely collected
Cleaning and scraping	Manure collected regularly (every 1-3 days) and stored in a dry, covered location	Manure cleaned at least quarterly, monthly during rainy season	Manure not/rarely cleaned
Footing in confinement area	Area is not/rarely muddy; proper footing allows year round access for regular cleaning and maintenance	Area has well-drained soils, but mud during winter months, makes manure removal/maintenance difficult	Poor footing (native soil) and area cannot be cleaned because of mud

(iii) PASTURE AND CROP MANAGEMENT

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Stocking rate	Stocking rate managed to balance forage availability with livestock needs	Stocking rate exceeds pasture production up to 50% of growing season	Stocking rate exceeds pasture production majority of growing season
Pasture and soil condition	3-4" minimum stubble height in pasture and adjacent to open water; greater than 100% grazable forage	2-3" minimum stubble height in pasture and adjacent to open water; at least 80% grazable forage; less than 20% bare ground; some soil compaction evident; no noxious weeds or poisonous plants	Less than 2" minimum stubble height in pasture and adjacent to open water; less than 80% grazable forage; greater than 20% bare ground with compacted soil; noxious weeds or poisonous plants present
Fertility management	Fertilizer or manure applications based on soil or plant tissue tests	Crop nutrients (both organic and inorganic) applied at agronomic rates and times recommended for each crop during growing season	Manure spread within 50 feet of streams or open ditches; liquid manure applied on bare, frozen or snow covered ground, or saturated soil from October 31 to March 1
Farm chemicals – pesticides, insecticides, and herbicides	Farm chemicals used as part of an integrated management plan, including record keeping	Applied consistent with the chemical container labels and all applicable Federal and State laws and regulations	Measures rarely or never taken to control pests or weeds; chemicals used without following guidelines and within 50 feet of open water
Seasonal management	Livestock excluded from pastures while soils are saturated or forage is dormant	Livestock allowed on well-drained pasture in winter, but excluded from seasonally wet areas	Livestock allowed year-round free range throughout pasture

(iv) WATER FEATURES (STREAMS, OPEN IRRIGATION DITCHES, PONDS, AND WETLANDS)

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
Livestock access	Livestock do not have access to above referenced water features. Vegetated buffers are 50 feet or greater in width	Livestock do not have access to the above referenced water features; vegetated buffers are 35 to 50 feet in width	Livestock have unrestricted access to the above referenced water features. Vegetated buffer width less than 35 feet in width
Stream crossings	Animals do not have to cross stream or open irrigation ditch, or livestock use crossings, such as a culvert or bridge, that does not impact the stream	Livestock infrequently cross streams or open irrigation ditch at one, controlled location; minimal damage to stream banks and stream channel	Livestock cross the stream and open irrigation ditch on a regular basis
Riparian areas	Healthy riparian buffer of native trees and shrubs at least 50 feet in	Buffer consisting of only grass or other herbaceous plants or riparian buffer of native trees	Riparian buffer less than 35 feet in width; above referenced water features

RATING ITEM	LOW RISK	MEDIUM RISK	HIGH RISK
	width	and shrubs 35 to 50 feet in width; may include 15 foot wide hedgerows	have bare and exposed soil
Water quality	Above referenced water features appears clean and is not subject to frequent algae blooms	Above referenced water features sometimes appears murky, especially after storms, periodic algae blooms	Above referenced water features exhibits poor water quality, such as frequent algae growth and murkiness

(b) Low-risk agricultural activities shall be deemed compliant with this section if they meet the low risk assessment criteria.

(c) Moderate risk agricultural activities may be compliant with this section unless it is determined that they are causing harm or degradation to the existing functions and values in and adjacent to AHCA's and wetlands. If this occurs these agricultural operations would be required to prepare an agricultural best management practices (BMPs) plan to address the area of concern. The BMPs plan would be based on the USDA Natural Resources Conservation Service (NRCS) "Field Office Technical Guide" (FOTG) that contains a non-exclusive list of conservation practices (BMPs) to guide implementation of the expectations of this section. The BMP Plan would have to be submitted to the Clallam County Department of Community Development (DCD) for review and approval.

(d) High risk agricultural activities on any of the 17-risk assessment items are required to submit a Farm Conservation Plan to address the high-risk activities. The intent of the Farm Conservation Plan is, at a minimum, to lower the risk assessment item from high to medium. The farm conservation plan shall include the following: name of owner; parcel numbers, number of acres in agriculture; description of the agricultural operation; length of time the property has been in continual agriculture (no lapse greater than 5 years); number and type of animals being raised; types of crops being raised; general fertilizer (i.e. manure or commercial fertilizers), type and extent of existing vegetation, especially native vegetation; pesticides, insecticides, and herbicides being utilized; a site map showing the agricultural activities, access roads, and buffer and riparian areas in and adjacent to AHCA's and wetlands; existing fence locations; and proposed BMPs to protect the functions and values of AHCA's and wetlands. The site plan should focus on the areas within 200 feet of AHCA's and wetlands regulated under this Chapter. The Clallam Conservation District may be available to provide technical assistance in the development of a Farm Conservation Plan that shall be submitted to DCD for review and approval.

(e) Those portions of land upon which owners or farm operators have implemented a Dairy Nutrient Management Plan or a Resource Management System Plan or Conservation Reserve Enhancement 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 (3) of this section. The plan must address all AHCA's and wetlands on the property, as well as all upland areas within the owner's control that could potentially adversely impact the AHCA.

(f) Such presumption of compliance may be rebutted and enforcement commenced as described in subsection (5) below if the County obtains credible evidence that the agricultural activities are not meeting the "no harm" or degradation standards of subsection (3) of this section. To be entitled to this presumption, the owner or operator shall provide the County with documented evidence of implementation of those elements of the approved plan that are relevant to the resource impact at issue.

(5) Compliance. It is the policy of the County to emphasize compliance by education and voluntary compliance as a first step. The County will utilize the following methods for determining compliance with the performance and protection standards of this section:

(a) If DCD receives information through monitoring data or a complaint that agricultural operation regulated under this section are potentially causing harm or degradation to the functions or values of AHCA or wetlands, then DCD or the Clallam Conservation District will determine if the agricultural operation regulated under this section is the likely cause. If the agricultural activity is determined to be causing the harm or degradation to the functions or values of AHCA or wetlands then a risk assessment will be completed to address the specific issue of the monitoring data or complaint.

If the risk assessment rating is medium, the agricultural operation is required to prepare an agricultural BMP to address the specific issue of concern. The BMP Plan would have to be submitted to DCD for review and approval.

If the risk assessment rating is high risk activity, a Farm Conservation Plan would be required to address the specific high risk activities.

The BMP Plan and Farm Conservation Plan are both encouraged to be developed by the Clallam Conservation District. While voluntary compliance is desirable, failure to implement the required BMP Plan or 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.

(c) The County will implement the Pollution Identification & Correction Plan for the Sequim Bay-Dungeness Watershed Clean Water District (December 2014 or as later amended), to strategically and systematically identify and address agricultural sources of pollution.

(6) Baseline Conditions and Monitoring and Adaptive Management. The implementation of the intent of this Section shall be subject to establish baseline conditions, to establish monitoring indicators, and to utilize adaptive management.

(a) 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 dated March 2012.

(v) Revised Draft WRIA 20 Inventory and Characterization Report dated May 2012.

(b) The County will use the following indicators to monitor trends in the baseline:

(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.

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(vi) A downgrade to the wetland classification of wetlands adjacent to or hydrologically connected to existing and ongoing agricultural activities.

(vii) *Other Data Sources - Reserved*

(c) Adaptive Management. The Administrator will review the above monitoring indicators to determine trends in the baseline functions and values in Section 6(a) above. If there is a downward trend, the Administrator will assess whether existing and ongoing agriculture activities subject to this Section are likely contributing to this downward trend and, if so, implement the following steps:

(i) Contact landowners of existing and 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 and ongoing agriculture, the Administrator will seek compliance under Section 5 above.

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

ADOPTED this _____ day of _____ 2016

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike Chapman, Chair

ATTEST:

Mark Ozias

Trish Holden, CMC, Clerk of the Board

Bill Peach