

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
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Mark Personius, AICP
Director

Agricultural Advisory Committee **Meeting**

LOCATION

**Hybrid Meeting: Zoom (details below) and
Northwest Annex Conference Room
Whatcom County Planning and Development Services
5280 Northwest Drive, Bellingham, WA 98226**

Date: May 8, 2024

Time: 3:00-5:00 P.M. Pacific Time PM Pacific Time (US and Canada)

Whatcom County PDS is inviting you to a scheduled in person or Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/85076941496>

Meeting ID: 850 7694 1496

Dial by your location

- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 900 9128 US (San Jose)
- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Washington DC)

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Agricultural Advisory Committee Meeting Agenda

for

May 8, 2024

3:00-5:00 P.M.

1. Roll Call & Introductions (5 min)
 - Determination of Quorum
2. Agenda Review & Adjustments (5 min)
3. Open Public Session (5 min)
4. Review & Approval of Previous Meeting Minutes (5 min)
 - April 10, 2024
5. Further Discussion on Voluntary Stewardship Program (VSP) (20 min)
6. Update on Whatcom County Agricultural Statistics (20 min)
 - USDA 2022 Census Results (farm closings & losses)
 - Rural Land Study 2022 Update (Chris Elder)
7. Report of Subcommittee Activities (15 min)
8. Review of Current Year's Work (20 min)
 - Ideas for County Budget Requests & Discussion of Meeting Schedule
9. Staff & Member Updates (15 min)
 - Upcoming Presentation to Council Planning & Development Committee on CPAL
10. New Business (5 min)
11. Action Items & Next Agenda (5 min)
12. Adjournment

Attachments:

- Draft minutes for AAC Meeting 4/10/24
- VSP Opt-In Process PDF
- Agenda for 5/7/24 CPAL presentation to County Council P&D Committee

Individuals who require special assistance to participate in the meetings are asked to contact AAC staff at least 96 hours in advance at: dstranik@whatcomcounty.us, 360-778-5911.

**Agricultural Advisory Committee
Meeting Summary
April 10, 2024**

Start Time:	3:00 p.m.
Location:	Hybrid Meeting – Zoom & at Whatcom County Planning & Development

Meeting Highlights
There were 15 people in attendance (Voting members: 6 of 9, Staff members: 2, Ex-Officio: 3 Members of the public: 4).

Attendees – Members	Affiliation	Present
Chapman, Alan	Whatcom Conservation District	<input checked="" type="checkbox"/>
McDermott, Matthew	Ag Producer	<input type="checkbox"/>
Kubalek, Roger	Ag Producer	<input checked="" type="checkbox"/>
Singh, Gurjit	Ag Producer	<input type="checkbox"/>
Harron, Elli	Ag Producer	<input checked="" type="checkbox"/>
Welch, Chantel	Ag Programs	<input type="checkbox"/>
Likkel, Fred	Whatcom Family Farmers	<input checked="" type="checkbox"/>
Pehl, Clay	Consumer of Ag Products	<input checked="" type="checkbox"/>
Hawley, Roger	Ag Producer	<input checked="" type="checkbox"/>
VACANT	Ag Producer	<input type="checkbox"/>
VACANT	Ag Producer	<input type="checkbox"/>
VACANT	Ag Producer	<input type="checkbox"/>
VACANT	Ag Producer	<input type="checkbox"/>

Quorum Present	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
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Attendees – Ex-Official/Contributing	Affiliation	Present
Corina Cheever	Whatcom Conservation District	<input checked="" type="checkbox"/>
Benedict, Chris	WSU Extension	<input type="checkbox"/>
Hall, Alex	NRCS	<input checked="" type="checkbox"/>
Hallberg, Brooklyn	FFA Youth	<input checked="" type="checkbox"/>

Attendees - Staff	Present
Dakota Stranik	<input checked="" type="checkbox"/>
Lauren Templeton	<input checked="" type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

Others Present
Alex Harris (ReSources)
Brandy Reed (WCD)
Kim Hallberg

Zoom Recording:

https://us02web.zoom.us/rec/play/crDoCpUBAVNkUTQy3wOnSk7kT8H_OxGaLGSi4SzTLQtU4zna1m_6Ni6eXho3ZYykJdvF0ALPOnXlslD-

[.1XJdRWyoj9XgnWWR?canPlayFromShare=true&from=my_recording&startTime=1712786456000&componentName=rec-play&originRequestUrl=https%3A%2F%2Fus02web.zoom.us%2Frec%2Fshare%2Fq4JESxOqlfDc8Co-vz5bRZO6i36SvA8qoMfybK22lopAyCx5gQtoXJgvt_F_URQa.WRhiv_KG5QeU-A%3FstartTime%3D1712786456000%2520Passcode%3A%2520982Ec.P0](https://www.zoom.us/j/912786456000?pwd=Z0pYcX5qQtoXJgvt_FURQaWRhiv_KG5QeU-A%3FstartTime%3D1712786456000%2520Passcode%3A%2520982Ec.P0)

1- Roll call and introductions - starting at 00:00:00

WCC 2.34.040 establishes that "a quorum shall consist of at least half of the appointed voting members." A quorum was established with 6 of 9 appointed voting members present.

2- Open Public Session - starting at 00:06:55

There was no public comment.

3- Review & Approval of Previous Meeting Minutes - starting at 00:07:05

Motion to approve by Fred, seconded by Roger Hawley. With no objections, the March minutes were unanimously approved.

4- Agenda Review & Adjustments - starting at 00:08:21

No alterations were made to the current agenda.

5- Agriculture & Environmental Regulation – Dakota Stranik (PDS) & Corina Cheever (WCD) - starting at 00:09:57

Dakota Stranik (PDS) presented on the Conservation Program on Agricultural Lands (CPAL), which she facilitates. CPAL is a program within the Critical Areas Ordinance (CAO) that allows for ongoing agricultural activities to be practiced within Critical Areas and their buffers with adoption of an approved farm plan and following Best Management Practices (BMPs). Landowners can choose to enroll in CPAL or follow the standard CAO which requires agricultural activities be restricted to areas outside of Critical Areas and their buffers. The CAO is defined in WCC 16.16 and CPAL is defined in WCC 16.16.800. This presentation was given in order to establish Whatcom County's current approach to agricultural activities in relation to Critical Area Regulations. Understanding the current approach will be important when considering possible adoption of the Voluntary Stewardship Program (VSP) in Whatcom County. The WA Growth Management Act requires that each county develop protections for Critical Areas.

Corina Cheever spoke briefly about how Whatcom Conservation District assists landowners with farm planning services and other resources to effectively steward natural resources while also working toward landowner goals for their farm. Landowner assistance from Whatcom Conservation District is free and confidential.

The Voluntary Stewardship Program (VSP) was briefly discussed at the end of the presentation (starting at 1:09:30 in the recording), but it was decided that a more in-depth conversation at a future meeting was merited to discuss the pros and cons of possibly adopting VSP for Whatcom County in the future. Currently 27 counties in Washington State are enrolled in VSP which offers a non-regulatory alternative to the CAO for agricultural activities occurring within Critical Areas & buffers.

6- Discussion of Topics for Future Presentations - starting at 01:32:08

Alan suggested a future discussion on the Pros & Cons of VSP, possibly with representatives from Thurston County & others as a comparison. Another topic suggested was further review of the Rural Study Areas as well as the different approaches taken around farmland preservation by British Columbia and also Skagit County. Sarah Stoner facilitates Skagit County's [Farmland Legacy program](#). Alan suggested one of the realtors from the Whatcom Farm Expo could speak to what it's like to purchase farmland in Whatcom County. Fred mentioned a possible future discussion around riparian buffers, habitat, and the intersection with ag once changes to CREP & SCC resources are finalized.

Roger Hawley expressed concerns about increasing regulations that may be directed disproportionately toward farmers as opposed to other types of land use or pollution sources.

Roger Kubalek suggested bringing in representatives from different ag sectors (dairy, berry, beef, etc.) to share successes, challenges, & needs.

Elli requested more information about the proposal to re-zone the Rural Study Areas (to be presented by Chris Elder). She also suggested more discussion about the concerns within the ag community regarding potential financial impacts to them if the RSAs were to be re-zoned.

Fred pointed out that Whatcom County is unique in how much land values are escalating. It was proposed that perhaps more analysis could be done to compare the cost & benefit of participating in Conservation Easement Programs.

7- Review of AAC Goals & Draft Memo to Related Advisory Committees – starting at 01:43:00

Discussion was had around a drafted Memorandum to collaborate in a sub-committee with other advisory committees that intersect with the AAC's work (climate, housing, forestry, food systems, etc.). The goal would be to meet with representatives of other committees in a sub-committee fashion and clarify where there are common goals that can be promoted in unison by a number of committees. The draft memo was reviewed and approved for distribution to move the process forward. Elli motioned, Clay seconded.

8- Staff & Member Updates - starting at 01:48:55

It was discussed that the proposed change to the Ag Zoning code to allow for propane as a conditional use was approved by Whatcom County Council on April 9th, 2024. The AAC voted to support the proposed change when it was presented to the AAC at the December 13, 2023 meeting. Since then the proposed code change went forward in the process, and some AAC members expressed concern that the listed conditions may not be sufficiently protective. It was acknowledged that the AAC is strictly an advisory committee and that the decision ultimately rested with Whatcom County Council. The code change was supported by a number of prominent members of the agricultural community.

A new application to fill an AAC member position for Ag Producer is pending approval by Whatcom County Council.

The possible removal of Gurjit Singh was considered as he has not attended a meeting in some time. It was agreed to make one final effort to contact him and if that is not successful to possibly recommend his removal by the Executive.

9- New business

No new business was presented

10- Action items and next agenda – 01:59:50

Next meeting topics included an update on advisory committee coordination, a presentation from Chris Elder about the concept of re-zoning the Rural Study Areas, consideration of a possible retreat format to designate subcommittee work over the summer session, and discussion of whether or not to continue meeting during the summer.

11- Adjournment

The meeting adjourned at 5:04 p.m. The next meeting is scheduled for May 8, 2024 from 3-5 p.m. to be held both in-person and virtually.

DRAFT

TIMELINE AND PROCESS

FOR COUNTIES TO OPT-IN TO THE VOLUNTARY STEWARDSHIP PROGRAM

UNDER SSB 5353

Counties wishing to participate in the Voluntary Stewardship Program (VSP) through the changes made to the VSP statute by [SSB 5353](#) will abide by the process set out below.

To participate in VSP, the county legislative authority must adopt an ordinance or resolution.¹ But before that resolution can be adopted, the county must confer with tribes, and environmental and agricultural interests; and provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.²

The resolution or ordinance must

- Elect to have the county participate in VSP;
- Identify the watersheds that will participate in VSP; and
- Nominate watersheds for consideration by the commission as state priority watersheds.³

In identifying watersheds to participate in VSP, a county must consider:

- a. The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;
- b. The overall likelihood of completing a successful program in the watershed; and
- c. Existing watershed programs, including those of other jurisdictions in which the watershed has territory.⁴

In identifying priority watersheds, a county must consider the following:

- a. The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;
- b. The importance of salmonid resources in the watershed;
- c. An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;
- d. The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;
- e. Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

¹ RCW 36.70A.710 (1) (b), as amended by SSB 5353.

² RCW 36.70A.710 (2).

³ RCW 36.70A.710 (1) (b), as amended by SSB 5353.

⁴ RCW 36.70A.710 (3) (underlining added for emphasis).

- f. The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and
- g. The overall likelihood of completing a successful program in the watershed.⁵

Once those statutory provisions have been complied with and a county ordinance or regulation adopted by the county legislative authority, then that county ordinance or regulation is sent to the SCC. Once it is received at the SCC,

[a] county that has made the election under subsection (1) of this section and after the effective date of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.⁶

By letter back to the county, the Conservation Commission (SCC) will acknowledge receipt of the opt-in ordinance or resolution and provide a planning and implementation contract to the county. Once that contract is signed by the county, returned to the SCC, and signed by the SCC, the SCC will make funds available to the county for planning and implementation.

Within sixty days of the SCC making funds available to a county, the county must acknowledge the receipt of funds, designate a watershed work group (WG), and an entity to administer funds.⁷

The WG shall develop and submit the work plan (WP) to the SCC's executive director for approval.⁸ Submitted WPs must be approved **within three years** after receipt of funding.⁹ "Receipt of funding" means the date a county takes legislative action accepting any funds as required in [RCW 36.70A.715\(1\)](#) to implement the program.¹⁰

Upon receipt of a WP submitted to the SCC's director under [RCW 36.70A.720\(2\)\(a\)](#), the director must submit the WP to the Technical Panel (TP) for review.¹¹ The TP shall review the WP and report to the director within **ninety days**¹² after the director receives the WP. The TP shall assess "whether at the end of ten years after receipt of funding, the WP, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed."¹³

⁵ RCW 36.70A.710 (4) (underlining added for emphasis).

⁶ RCW 36.70A.710 (8) (b) (as amended by SSB 5353).

⁷ [RCW 36.70A.715\(1\)\(a\) and \(b\)](#).

⁸ [RCW 36.70A.720\(2\)\(a\)](#).

⁹ [RCW 36.70.725\(6\)](#).

¹⁰ [RCW 36.70A.703\(9\)](#).

¹¹ [RCW 36.70A.725\(1\)](#).

¹² The Legislature amended RCW 36.70A.725 (2) on June 30, 2017 as part of the operating budget bill ([SSB 5883, §961](#)), and changed the time period in which the Technical Panel must conduct a review of a work plan formally submitted to the Conservation SCC from forty-five days to ninety days.

¹³ [RCW 36.70A.725\(2\)](#).

TP recommends WP approval: If the TP determines the proposed WP will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed, then the TP must recommend approval of the WP and the director must approve the WP.¹⁴

TP does not recommend approval of WP: If the TP determines the proposed WP will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed, then the TP must identify the reasons for its determination; and the director must advise the WG of the reasons for disapproval.¹⁵

The WG may modify and resubmit its WP for review and approval consistent with [RCW 36.70A.725\(4\)](#). However, if the director does not approve a WP submitted under this section within **two years and nine months** after receipt of funding, the director shall submit the WP to the Statewide Advisory Committee (SAC) for resolution.

If the SAC recommends approval, the director must approve the WP.¹⁶ If the director does not approve a WP for a watershed within **three years** after receipt of funding, the provisions of [RCW 36.70A.735\(2\)](#) apply to the watershed.¹⁷

If a participating watershed does not have a WP approved by the director as provided in [RCW 36.70A.725](#) or the WP's goals and benchmarks for protection have not been met as provided in [RCW 36.70A.720](#), then within **18 months** the county must develop its own WP, adopt regulations previously adopted by another local government to protect critical areas, adopt Department of Commerce critical area regulations, or review, and if necessary, revise development regulations certified by the department as protective of critical areas in areas used for agricultural activities.¹⁸

WP TIMELINE BY COUNTY (Example)			
County	Date county signed contract (date of receipt of funding)	Deadline for WP approval via the TP review process (2 yrs, 9 mo)	Deadline for WP approval via the SAC review process (3 yrs)
County1	September 2023	June 2027	September 2027
County2	September 2023	June 2027	September 2027
County3	September 2023	June 2027	September 2027

¹⁴ [RCW 36.70A.725\(3\)\(a\)](#).

¹⁵ [RCW 36.70A.725\(3\)\(b\)](#).

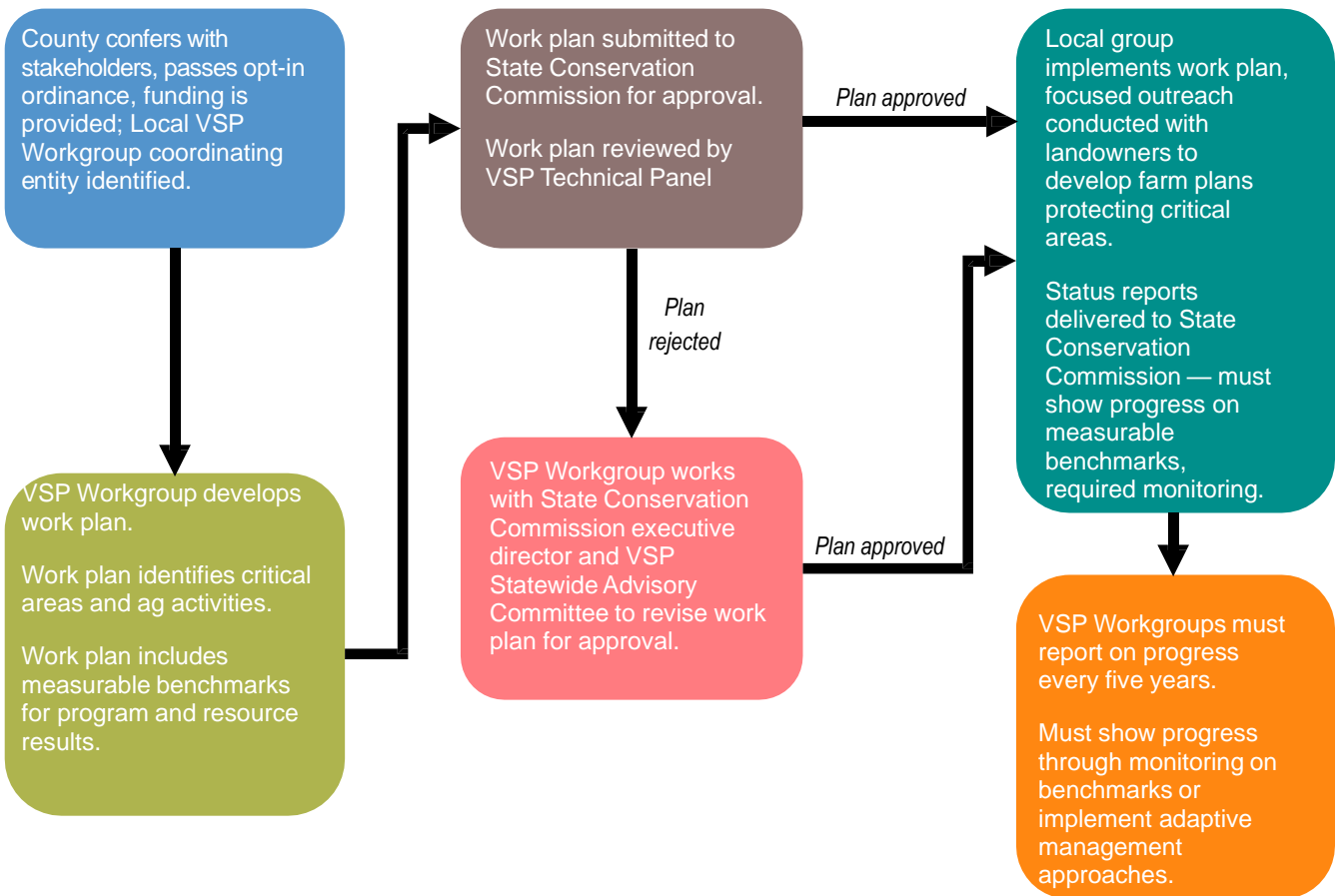
¹⁶ [RCW 36.70A.725\(5\)](#).

¹⁷ [RCW 36.70A.725\(6\)](#).

¹⁸ [RCW 36.70A.735](#).

DEADLINE FOR COUNTY TO SUBMIT WP TO TP (90 DAY REVIEW) (Example)				
County	Date county signed K (date of receipt of funding)	Date WP must be submitted to TP (TP approval deadline minus 90 days)	Deadline for WP approval via the TP review process (2 yrs, 9 mo)	Deadline for WP approval via the SAC review process (3 yrs)
County1	Sept 2027	March 2027	June 2027	Sept 2027
County2	Sept 2027	March 2027	June 2027	Sept 2027
County3	Sept 2027	March 2027	June 2027	Sept 2027

VOLUNTARY STEWARDSHIP PROGRAM:
PROCESS DIAGRAM



Process summary

For counties to opt-in to VSP:

- Counties are required to adopt an ordinance or resolution opting-in to the program.

- Before adopting the resolution, the county must:
 - Confer with tribes, environmental and agricultural interests; and
 - Provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.
- The ordinance or resolution must:
 - Elect to have the county participate in the program;
 - Identify the watersheds that will participate in the program (RCW 36.70A.710 (3) and (4) set out things that must be considered by the county); and
 - Nominate watersheds for consideration by the SCC as state priority watersheds.

A county's choice to opt-in and the adopted resolution is then conveyed to the SCC by letter. After receipt of the letter by the SCC, the SCC would provide the VSP contract to the county. Once that is signed by the county, the county has satisfied the requirement to acknowledge receipt of funds, and the three-year planning cycle begins.

Once the signed contract is returned to the SCC, and signed by the SCC, VSP funds would be available to the county, thus triggering the 60 days during which the county must complete the other initial county responsibilities, identified below:

Initial county responsibilities:

- Within 60 days of funds being available to a county to implement the program, the county must:
 - Designate an entity to administer funds.
 - County may designate itself, a tribe, or another entity to coordinate the WG.
 - Designate a WG.
 - Must confer with tribes and stakeholders before designating the WG.
 - Must acknowledge receipt of funds.
 - Signing contract with the SCC - triggers timeline for completion of a WP

Contracting with the SCC:

- "Acknowledge receipt of funds" is accomplished through signing the contract with the SCC.
 - County signs the contract. FY23-25 contract should go out to the current 27 VSP counties in early June 2023, for county signature. The SCC will sign the contract upon return by the county, thus making VSP funds available to the county.
- Can the SCC contract directly with another entity?
 - Statute only allows for county to acknowledge receipt.
 - Another entity can lead and invoice to WSCC.
- Funding is by invoice for work completed.

Designation of the WG:

- Must be designated when funds are made available.
- The WG must include a broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups, and tribes that agree to participate.
- County should encourage existing lead entities, watershed planning units, or other integrating organizations to serve on the WG.
- State and federal agencies can be very useful WG participants.

- The WG must develop a WP to protect critical areas while maintaining the viability of agriculture in all participating county watersheds.
- The county must:
 - “...confer with tribes and interested stakeholders before designating or establishing a watershed group.”
 - “The watershed group must include broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups and tribes that agree to participate. The county should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.”

Developing a county WP:

- WGs have 2 years 9 months of receipt of funds to prepare and submit a WP.
- If no WP is submitted by deadline:
 - SCC to engage the SAC in discussion with WG.
 - Must have WP in 3 years or “fail out” of VSP.
 - Statute defines what happens if a county “fails out.”

How can counties start the planning process?

- Collect and evaluate background information.
- Hold local informational meetings.
- Need to reach out to local stakeholders and let them know about the VSP effort, how to be involved.
- Conduct specific outreach using methods already used in your community.

What topics must the WG address in the WP?

- The WP must:
 - Identify critical areas and agricultural activities.
 - Identify economic viability of agriculture in county.
 - Identify outreach plan to contact landowners.
 - Identify entity to provide landowner assistance.
 - Identify measurable programmatic and implementation goals and benchmarks.
 - All 26 requirements are in RCW 36.70A.720.

How is a WP approved?

- Once a county has completed a WP, it is submitted to SCC Executive Director for approval.
- Director submits the WP to a Technical Panel who has 90 days to review and make recommendation to the director.
- If not approved, the director to work with the WG and SAC for revisions.
- Approval must occur before the end of the 3 years, or the county is kicked back to the “traditional GMA approach.”
- After final approval, the county, through the WG, must implement the WP.
- Every 5 years, local WG must report on progress to the SCC. If not making progress, must correct or be kick back into “traditional GMA approach.”

Background RCW excerpts pertinent to WP timelines:

RCW 36.70A.703

(9) "Receipt of funding" means the date a county takes legislative action accepting any funds as required in [RCW 36.70A.715\(1\)](#) to implement the program.

RCW [36.70A.710](#)

Critical areas protection—Alternative to RCW [36.70A.060](#)—County's responsibilities—Procedures.

*** CHANGE IN 2023 *** (SEE [5353-S.SL](#)) ***

(1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW [36.70A.060](#), the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, the legislative authority of a county must adopt an ordinance or resolution that:

(i) Elects to have the county participate in the program;

(ii) Identifies the watersheds that will participate in the program; and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW [36.70A.035](#) to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(8)(a) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(b) A county that has made the election under subsection (1) of this section and after the effective date of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

RCW 36.70A.715

Funding by SCC—County's duties—Watershed group established.

(1) When the SCC makes funds available to a county that has made the election provided in RCW [36.70A.710\(1\)](#), the county must within sixty days:

(a) Acknowledge the receipt of funds; and

(b) Designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.

RCW 36.70A.720

Watershed group's duties—WP—Conditional priority funding.

(2)(a) The watershed group shall develop and submit the WP to the director for approval as provided in RCW [36.70A.725](#).

(b)(i) Not later than five years after the receipt of funding for a participating watershed, the watershed group must report to the director and the county on whether it has met the WP's protection and enhancement goals and benchmarks.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW [36.70A.730](#), the watershed group shall continue to implement the WP.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan under RCW [36.70A.730](#), the watershed is subject to RCW [36.70A.735](#).

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(c)(i) Not later than ten years after receipt of funding for a participating watershed, and every five years thereafter, the watershed group must report to the director and the county on whether it has met the protection and enhancement goals and benchmarks of the WP.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW [36.70A.730](#), the watershed group shall continue to implement the WP.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, the watershed is subject to RCW [36.70A.735](#).

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

RCW 36.70A.725

Technical review of WP—Time frame for action by director.

(1) Upon receipt of a WP submitted to the director under RCW [36.70A.720\(2\)\(a\)](#), the director must submit the WP to the technical panel for review.

(2) The technical panel shall review the WP and report to the director within ~~forty-five~~ ninety days after the director receives the WP. The technical panel shall assess whether at the end of ten years after receipt of funding, the WP, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

(3)(a) If the technical panel determines the proposed WP will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must recommend approval of the WP; and

(ii) The director must approve the WP.

(b) If the technical panel determines the proposed WP will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must identify the reasons for its determination; and

(ii) The director must advise the watershed group of the reasons for disapproval.

(4) The watershed group may modify and resubmit its WP for review and approval consistent with this section.

(5) If the director does not approve a WP submitted under this section within two years and nine months after receipt of funding, the director shall submit the WP to the statewide advisory committee for resolution. If the statewide advisory committee recommends approval, the director must approve the WP.

(6) If the director does not approve a WP for a watershed within three years after receipt of funding, the provisions of RCW 36.70A.735(2) apply to the watershed.

RCW 36.70A.730

Report by watershed group—Director consults with statewide advisory committee.

(1) Upon receipt of a report by a watershed group under RCW 36.70A.720(2)(b) that the WP goals and benchmarks have been met, the director must consult with the statewide advisory committee. If the director concurs with the watershed group report, the watershed group shall continue to implement the WP. If the director does not concur with the watershed group report, the director shall consult with the statewide advisory committee following the procedures in subsection (2) of this section.

(2) If either the director, following receipt of a report under subsection (1) of this section, or the watershed group, in the report submitted to the director under RCW 36.70A.720(2)(b), concludes that the WP goals and benchmarks for protection have not been met, the director must consult with the statewide advisory committee for a recommendation on how to proceed. If the director, acting upon recommendation from the statewide advisory committee, determines that the watershed is likely to meet the goals and benchmarks with an additional six months of planning and implementation time, the director must grant an extension. If the director, acting upon a recommendation from the statewide advisory committee, determines that the watershed is unlikely to meet the goals and benchmarks within six months, the watershed is subject to RCW 36.70A.735.

(3) A watershed that fails to meet its goals and benchmarks for protection within the six-month time extension under subsection (2) of this section is subject to RCW 36.70A.735.

RCW 36.70A.735

When WP is not approved, fails, or is unfunded—County's duties—Rules.

(1) Within eighteen months after one of the events in subsection (2) of this section, a county must:

(a) Develop, adopt, and implement a watershed WP approved by the department that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed. The department shall consult with the departments of agriculture, ecology, and fish and wildlife and the SCC, and other relevant state agencies before approving or disapproving the proposed WP. The appeal of the department's decision under this subsection is subject to appeal under RCW 36.70A.280;

(b) Adopt development regulations previously adopted under this chapter by another local government for the purpose of protecting critical areas in areas used for agricultural activities. Regulations adopted under this subsection (1)(b) must be from a region with similar agricultural activities, geography, and geology and must:

(i) Be from Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by a growth management hearings board or court after July 1, 2011, where the board or court determined that the provisions adequately protected critical areas functions and values in areas used for agricultural activities;

(c) Adopt development regulations certified by the department as protective of critical areas in areas used for agricultural activities as required by this chapter. The county may submit existing or amended regulations for certification. The department must make its decision on whether to certify the development regulations within ninety days after the county submits its request. If the department denies the certification, the county shall take an action under (a), (b), or (d) of this subsection. The department must consult with the departments of agriculture, ecology, and fish and wildlife and the SCC before making a certification under this section. The appeal of the department's decision under this subsection (1)(c) is subject to appeal under RCW 36.70A.280; or

(d) Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.

(2) A participating watershed is subject to this section if:

(a) The WP is not approved by the director as provided in RCW 36.70A.725;

(b) The WP's goals and benchmarks for protection have not been met as provided in RCW 36.70A.720;

(c) The SCC has determined under RCW 36.70A.740 that the county, department, SCC, or departments of agriculture, ecology, or fish and wildlife have not received adequate funding to implement a program in the watershed; or

(d) The SCC has determined under RCW 36.70A.740 that the watershed has not received adequate funding to implement the program.

(3) The department shall adopt rules to implement subsection (1)(a) and (c) of this section.

RCW 36.70A.740

SCC's duties—Timelines.

(1) By July 31, 2015, the SCC must:

(a) In consultation with each county that has elected under RCW 36.70A.710 to participate in the program, determine which participating watersheds received adequate funding to establish and implement the program in a participating watershed by July 1, 2015; and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of RCW 36.70A.700 through 36.70A.760 have received adequate funding to support the program by July 1, 2015.

(2) By July 31, 2017, and every two years thereafter, in consultation with each county that has elected under RCW 36.70A.710 to participate in the program and other state agencies, the SCC shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the SCC determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of RCW 36.70A.735.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the SCC shall report to the legislature and each county that has elected under RCW 36.70A.710 to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program.

Whatcom County Council Planning and Development Committee

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Meeting Agenda

Tuesday, May 7, 2024

1:30 PM

Hybrid Meeting

**HYBRID MEETING - ADJOURNS BY 3:20 P.M., MAY BEGIN EARLY
(PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil, OR CALL 360.778.5010)**

COUNCILMEMBERS

Todd Donovan
Ben Elenbaas
Jon Scanlon

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance. This committee meeting is also noticed as a meeting of the Whatcom County Council, with the agenda limited to committee business.

Special Presentations

1. [AB2024-304](#) Presentation on Conservation Program of Agricultural Lands (CPAL)
2. [AB2024-276](#) Overview of land use development and the appearance of fairness doctrine

Items Added by Revision

Other Business

Adjournment