

buffers that have occurred due to logging and any associated [conversion](#) activity. The [site assessment](#) shall also include an estimated time needed for recovery of the [critical area](#) to a state comparable to what it was before the [forest practice](#) took place.

(b) If, based on the prepared [site assessment](#) and comments received, the [Administrative Official](#) determines that recovery of the [critical area\(s\)](#) and associated buffers can be achieved, then a [mitigation plan](#) shall be prepared and implemented consistent with this Chapter and the moratorium shall be lifted. If, however, [critical areas](#) and their buffers cannot be restored to a level of [critical areas](#) function comparable to what it was prior to the logging activity during the moratorium period, the request for a waiver of the moratorium shall be denied and the [County](#) shall not accept [applications](#) for [development permits](#) for the duration of the moratorium.

(6) In situations where a request for waiver has been denied based on the evidence provided in the [site assessment](#) and public comment, [restoration](#) to the extent feasible shall occur within the [critical areas](#) and their standard buffers (including reforestation), and no further land [use](#) approvals shall be issued for the duration of the moratorium. (Ord. O20110007 Atch. 1 (part); Ord. O20090010 Atch. 1 (part); Ord. O20080014 (part))

14.24.120 Ongoing agriculture.

(1) Purpose and Intent. The purpose of this Section is to address 2 mandates under the Growth Management [Act](#) (GMA): (a) to protect the existing [functions and values](#) of [fish and wildlife habitat conservation areas](#) (FWHCAs) in and adjacent to natural, modified natural, and [artificial watercourses](#) as defined in [SCC 14.04.020](#) (collectively "[watercourses](#)"), and (b) to conserve and protect agricultural lands of [long-term commercial significance](#), specifically those lands in ongoing [agricultural activity](#) as defined by [SCC 14.04.020](#) that are located adjacent to these [watercourses](#).

(a) For purposes of this Section, "existing [functions and values](#)" means the following:

- (i) Water quality standards identified in Chapter 173-201A WAC, including the provisions that account for natural or baseline conditions.
- (ii) The existing presence or absence of large woody debris within the [watercourse](#).
- (iii) The existing riparian buffer characteristics and width, including but not limited to the existing amount of shade provided by the existing riparian buffer.
- (iv) The existing channel morphology.

(b) Because many of the areas that are the subject of this Section are located in the Skagit and Samish River deltas or floodplains, where substantial [diking](#) and [drainage](#) infrastructure have been constructed and where various [diking](#) and [drainage](#) districts have lawful obligations to maintain agricultural and other [drainage](#) functions and infrastructure as established in RCW Titles 85 and 86, this Section also must accommodate those ongoing [diking](#), [drainage](#), and [flood](#) control functions.

(c) It is the goal of Skagit [County](#) to administer the provisions of this Section consistent with local, [State](#), and Federal programs, statutes and regulations to protect the health, welfare, and safety of the community, to accommodate continued operation and maintenance of the [diking](#), [drainage](#), and [flood](#) control infrastructure and to protect agriculture, natural resources, natural resource industries, and [fish and wildlife habitat conservation areas](#) in and adjacent to [watercourses](#). This Section is intended,

to the maximum extent possible, to rely on and coordinate with but not substitute for or duplicate other [State](#) and Federal programs, statutes, and regulations that address [agricultural activities](#) in a manner that protects water quality and fish habitat. This Section is intended to supplement those existing [State](#) and Federal programs, statutes, and regulations only in those areas where the [County](#) has determined existing programs do not fully address GMA requirements to protect FWHCAs in and adjacent to [watercourses](#) and to conserve agricultural lands of [long-term commercial significance](#).

(d) Skagit [County](#) hereby elects to enroll the entirety of unincorporated Skagit [County](#), and all its [watersheds](#), in the Voluntary Stewardship Program established by Engrossed Substitute House Bill 1886 (2011). Skagit [County](#) intends the Voluntary Stewardship Program, in conjunction with the provisions of this Section and Chapter, to protect [critical areas](#) in areas of [agricultural activity](#).

(2) Applicability. Except as may otherwise be required by ESHB 1933, Chapter 321, Laws of 2003, for agricultural lands located within the jurisdiction of the Shoreline Management [Act](#), Chapter 90.58 RCW, this Section shall apply to the following:

(a) As defined in [SCC 14.04.020](#), all [ongoing agriculture](#) (including operation and maintenance of agricultural [drainage](#) infrastructure) which is located within 200 feet from a [watercourse](#), or any [ongoing agriculture](#) (including operations and maintenance of agricultural [drainage](#) infrastructure) that adversely [impacts](#) the existing [functions and values](#) of a [watercourse](#), is subject to the requirements of this Section. Isolated, [artificial watercourses](#) that have no channelized surface hydraulic connection or no piped hydraulic connection between the [artificial watercourse](#) and any natural or [modified natural watercourse](#) or any salt water shall not be subject to the requirements of this Section. [Drainage](#) tile used to convey [groundwater](#) shall not be considered a piped hydraulic connection.

(b) The provisions of this Section shall not be interpreted to permit expansion of [ongoing agriculture](#) (including agricultural [drainage](#) infrastructure) into areas that did not meet the definition of [ongoing agriculture](#) on May 13, 1996, including lands that were fallow on that date but had been in agricultural production within 5 years prior to that date, unless such expansion can comply with all of the requirements for [critical areas](#) protection found in this Chapter, including but not limited to the requirement to adhere to the standard [critical areas](#) buffers and [setbacks](#).

(c) In this Section, the term “best management practices (BMPs)” refers to one or all definitions of that term in [SCC 14.04.020](#), depending on which definition is relevant within the context used.

(d) Agricultural operations that do not meet the definition of [ongoing agriculture](#) are required to comply with the other provisions of this Chapter.

(3) No Harm or Degradation Standard.

(a) All ongoing [agricultural activities](#) must be conducted so as not to cause harm or degradation to the existing [functions and values](#) of FWHCAs in and adjacent to [watercourses](#) (the “no harm or degradation” standard). For purposes of this Section, the phrase “no harm or degradation” means the following:

- (i) Meeting the [State](#) water [pollution](#) control laws; and
- (ii) Meeting the requirements of any total maximum daily load (TMDL) water quality

improvement [projects](#) established by the [Department of Ecology](#) (ECY) pursuant to Chapter 90.48 RCW; and

(iii) Meeting all applicable requirements of Chapter 77.55 RCW (Hydraulics Code) and Chapter 220-110 WAC (Hydraulics Code Rules); and

(iv) Meeting the specific [watercourse](#) protection measures for [ongoing agriculture](#) specified in Subsection (4) of this Section; and

(v) No evidence of significant degradation to the existing fish habitat characteristics of the [watercourse](#) from those characteristics identified in the baseline inventory described in Resolution No. R20040211 that can be directly attributed to the [agricultural activities](#) that are described in this Section.

(b) The references to Chapters 77.55 and 90.48 RCW and Chapters 173-201A and 220-110 WAC contained in this Subsection shall not be interpreted to replace ECY and the Washington [Department of Fish and Wildlife](#) (WDFW) authority to implement and enforce these [State](#) programs with [County](#) responsibility to do so, but rather are intended to provide [County](#) input and a supplemental [County](#) involvement as needed to implement the [County's](#) GMA obligations under this Section.

(c) Reserved.

(d) An [owner](#) or operator is responsible only for those conditions caused by [agricultural activities](#) conducted by the [owner](#) or operator and is not responsible for conditions that do not meet the requirements of this Subsection resulting from the actions of others or from natural conditions not related to the agricultural operations. In those situations where the [County](#) is presented with data showing a violation of a [State](#) water quality standard at a particular location, but where the [County](#) cannot identify any condition or practice existing or occurring at a particular agricultural operation that is causing the violation, the [County](#) shall refer the information regarding the [State](#) water quality violation to ECY and shall follow other procedures described in [SCC 14.44.085](#). Conditions resulting from unusual weather events (such as a storm in excess of 25-year, 24-hour storm), or other exceptional circumstances that are not the product of obvious neglect are not the responsibility of the [owner](#) or operator, but shall be subject to the requirements for emergency actions described in [SCC 14.24.070\(1\)](#).

(4) Required [Watercourse](#) Protection Measures for [Ongoing Agriculture](#). Unless the emergency provisions of [SCC 14.24.070\(1\)](#) apply, the following [watercourse](#) protection measures are required:

(a) Livestock and Dairy Management. Livestock and dairy operations must not contribute any wastes or sediments into a natural or [modified natural watercourse](#) in violation of adopted [State water pollution](#) control laws.

(i) Livestock access to [watercourses](#) must be managed consistent with this Subsection. Access to a [watercourse](#) for livestock watering and/or stream crossings must be limited to only the amount of time necessary for watering and/or crossing a [watercourse](#). Livestock watering facilities or access must be constructed consistent with applicable NRCS conservation practice standards, and must not be constructed to provide access to agricultural land that does not meet the definition of [ongoing agriculture](#) unless that agricultural land and the crossing can meet all requirements of Chapter [14.24 SCC](#).

(ii) Dairy operations must comply with the requirements of Chapter 90.64 RCW (Dairy Nutrient Management [Act](#)).

(iii) Livestock pasture must be managed so as to maintain vegetative cover sufficient to avoid contributing sediments to a [watercourse](#) in violation of [State](#) water [pollution](#) control laws.

(iv) Any existing or new livestock confinement or concentration of livestock areas that is located upgradient from a [watercourse](#) which results in bare ground (such as around a watering trough) must be constructed and maintained to prevent sediment and/or nutrient runoff [contaminants](#) from reaching a [watercourse](#) in violation of [State](#) water [pollution](#) control laws.

(b) Nutrient and [Farm](#) Chemical Management.

(i) The [owner](#) or operator must not place manure in a [watercourse](#) or in a location where such wastes are likely to be carried into a [watercourse](#) by any means. Spreading of manure within 50 feet of any [watercourse](#), and spreading of liquid manure on bare ground, is prohibited from October 31st to March 1st; unless otherwise permitted pursuant to:

(A) An approved and implemented dairy nutrient management plan (DNMP) as prescribed by Chapter 90.64 RCW; or

(B) A [farm](#) plan prepared or approved by the Conservation District.

(ii) Agricultural operators may not apply crop nutrients other than at [agronomic rates](#) recommended for that particular crop.

(iii) [Farm](#) chemicals may only be applied consistent with all requirements stated on the chemical container labels and all applicable Federal and [State](#) laws and regulations, such as Chapter 15.58 RCW (Pesticide Control [Act](#)), Chapter 17.21 RCW (Pesticide [Application](#) Act), and 7 USC 136 et seq. (Federal Insecticide, Fungicide, and Rodenticide [Act](#)).

(c) Soil Erosion and Sediment Control Management.

(i) [Roads](#) used for ongoing [agricultural activities](#) must be designed such that [road](#) surfaces, fill, and associated [structures](#) are constructed and maintained to avoid contributing sediment to [watercourses](#).

(ii) Agricultural equipment operation must not cause [watercourse](#) bank sloughing or other failure due to operation too close to the top of the bank.

(iii) [Watercourse](#) construction and maintenance must meet the requirements for [drainage](#) operation and maintenance described under Subsection (4)(d) of this Section.

(iv) [V-ditching](#) must not be constructed to drain into a [watercourse](#) that contains salmonids, unless the topography of the field is such that the only alternative to drain the field by gravity is to drain the V-ditch into a [watercourse](#) that does contain salmonids. When draining a V-ditch into a [watercourse](#) that does contain salmonids, appropriate BMPs should be used to avoid contributing excess amounts of sediment to the [watercourse](#). For the purpose of determining whether a [watercourse](#) contains salmonids, the [County](#) will [use](#) salmonid distribution based on the "limiting factors analysis" data compiled by the Washington [State](#) Conservation Commission.

(d) Operation and Maintenance of Public and Private Agricultural Drainage Infrastructure. The following practices apply to any watercourse that is part of drainage infrastructure, except those practices performed pursuant to a fully-executed Drainage-Fish Initiative or Tidegate-Fish Initiative agreement:

(i) Regularly scheduled agricultural drainage infrastructure maintenance that includes dredging or removal of accumulated sediments in any watercourse shall be conducted between June 15th and October 31st. If an approved hydraulics project permit provides for a different work window, those requirements control. If presence of fall or over-winter crops prevents regularly scheduled maintenance during this time period, then the maintenance may be conducted outside this work window; provided, that the person or entity proposing to conduct the maintenance outside the work window can demonstrate that the presence of crops prevents maintenance within the work window and provided the maintenance is conducted using best management practices to minimize sediment or other impacts to water quality.

(A) Owners or operators shall consult with districts conducting drainage maintenance to schedule their crop rotations for crops that may still be in the field after October 31st so that, to the maximum extent possible, such drainage maintenance can occur in a year when the fall crops are not being raised in the field adjacent to the drainage infrastructure scheduled for drainage maintenance.

(ii) Unless there is no feasible alternative, regularly scheduled maintenance that includes dredging or removal of accumulated sediments in any watercourse should be conducted at those times when there is no or minimal water flow in the watercourse being maintained to minimize potential for distributing sediments to salmonid-bearing waters.

(iii) Excavation spoils must be placed so as not to cause bank failures and so that drainage from such spoils will not contribute sediment to the watercourse.

(iv) Mowing or cutting of vegetation located within a watercourse that is part of drainage infrastructure may be conducted at any time; provided, that the cutting is above the ground surface within the channel and in a manner that does not disturb the soil or sediments; and provided, that the cut vegetation does not block water flow. Watercourse bank vegetation shall be preserved or allowed to reestablish as soon as practicable after drainage construction and maintenance are completed to stabilize earthen ditch banks.

(v) Districts subject to this Section, operating pursuant to authority in RCW Title 85 or 86, which are conducting drainage activities shall complete and submit a drainage maintenance checklist to the County by June 1st of each year. The checklist shall describe the intent of the district to comply with the drainage maintenance requirements of Subsection (4)(d) of this Section. The districts may seek assistance from NRCS, SCD and/or the County in completing the checklist or addressing the requirements of this Subsection. The checklist shall be available from Skagit County Planning and Development Services, mailed to any entity conducting drainage activities, and shall be submitted to Planning and Development Services when completed. The districts may submit modifications to the information in the checklist, if circumstances affecting district maintenance change after the initial submittal.

(A) The County shall send a written notice to any district not submitting this completed

checklist by June 1st of each year, stating that the [County](#) has not received the required checklist and that the district is not authorized to conduct [drainage maintenance](#) activity until the district has submitted the completed checklist evidencing intent to comply with this Subsection.

(B) Subsequent commencement of [drainage maintenance](#) work without submitting a completed checklist shall be subject to enforcement pursuant to Chapter [14.44 SCC](#).

(vi) Immediate measures necessary to drain fields inundated by an unanticipated [flooding](#) event or failure of the agricultural [drainage](#) infrastructure shall be subject to the requirements for emergency [repair](#) described in [SCC 14.24.070\(1\)](#).

(5) Recognition for Agricultural [Owners](#) and Operators Who Have Implemented Extra [Watercourse](#) Protection Measures. This Subsection intends to recognize the extra [watercourse](#) protection measures for [ongoing agriculture](#) taken by landowners or operators who have implemented an approved dairy nutrient management plan (DNMP) or resource management system plan (RMS plan) (including, but not limited to, CREP) from SCD or NRCS.

(a) Those portions of land upon which [owners](#) or operators have sought and implemented an approved DNMP or an [RMS plan](#) consistent with the conservation practices and management standards that meet the FOTG quality criteria for each natural resource (soil, water, animals, plants and air) are entitled to a presumption of compliance with the “no harm or degradation” standards described in Subsection (3) of this Section. The [RMS plan](#) or DNMP must include within the planning unit any [watercourses](#) located on the property, as well as all upland areas within the [owner](#)’s control that could potentially adversely [impact](#) the [watercourse](#) and/or associated fish habitat.

(b) Such presumption of compliance may be rebutted and enforcement commenced as described in [SCC 14.44.085](#) if the [County](#) obtains credible evidence that the agricultural operation is 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 at the time a [Request for Investigation](#) (RFI) is presented to the [County](#) under [SCC 14.44.010](#).

(6) Enforcement. The [Department](#) is directed to enforce the requirements of this Subsection, including the mandatory [watercourse](#) protection measures, as described in [SCC 14.44.085](#). (Ord. O20110013 Atch. A (part); Ord. O20080014 (part))

14.24.130 Hazard tree removal.

(1) In a [critical area](#) or [critical area buffer](#), removal of hazardous, diseased or dead trees and vegetation by the landowner may be permitted when necessary to:

(a) Control fire; or

(b) Halt the spread of disease or damaging insects consistent with the [State Forest Practice Act](#), Chapter 76.09 RCW; or

(c) Avoid a hazard such as [landslides](#); or

(d) Avoid a threat to existing [structures](#) or aboveground utility lines.