

Skagit County Critical Areas Ordinance Update 2006: Summary of Proposed Fish and Wildlife Habitat Conservation Area Section Revisions

Topic	Current CAO	Proposed Revisions Presented to the Citizens Advisory Committee (CAC)	Rationale	Public Release Proposed Revisions
<p>FW1: Designation of Fish & Wildlife Habitat Conservation Areas</p>	<p>SCC14.04 Definitions Fish & wildlife habitat conservation areas and their networks shall be classified as follows: (a) areas with which endangered, threatened, and sensitive species have a primary association; (b) habitats and species of local importance that have been designated by the County at the time of application; (c) all public and private tidelands suitable for shellfish harvest; (d) kelp and eelgrass beds, herring and smelt spawning areas; (e) naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat; (f) waters of the State as defined by WAC 222-16 (g) lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; (h) areas with which anadromous fish species have a primary association; (i) State Natural Area Preserves and Natural Resource Conservation Areas; and (j) other aquatic resource areas.</p>	<p>SCC14.24.500(1) Fish & wildlife habitat conservation areas (HCA) and their networks shall be classified as follows: (a) areas with which endangered, threatened, and sensitive species have a primary association; (b) habitats and species of local importance that have been designated by the County at the time of application; (c) all public and private tidelands suitable for shellfish harvest; (d) kelp and eelgrass beds, herring and smelt spawning areas; (e) naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat; (f) waters of the State as defined by WAC 222-16 (g) lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; (h) areas with which anadromous fish species have a primary association; (i) State Natural Area Preserves and Natural Resource Conservation Areas; and (j) other aquatic resource areas. AND: (k) State Priority Habitats and Areas Associated with State Priority Species as</p>	<p>Guidance from RCW 365-190-080(5) Fish and wildlife conservation areas.</p> <p>The areas listed in (a) through (i) in both the existing and proposed code are straight from the RCW. Item (j) is in the current code and is proposed to remain to include all aquatic resources.</p> <p>Items (k) and (m) were proposed based on BAS and additional guidance from RCW 195-190-080 (c)(ii) “Priority habitats and species are being identified by the department of wildlife for all lands in Washington State. While these priorities are those of the department, they and the data on which they are based may be considered by counties and cities. and RCW 195-190-080 (b)(i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces”.</p> <p>Item (l) was added based on BAS.</p>	<p>SCC14.24.500(1) Fish & wildlife habitat conservation areas (HCA) and their networks shall be classified as follows:</p> <p>The same language presented to CAC except:</p> <p>Item (m) was removed because connectivity can be addressed in the buffer increasing section and recommendation from the CAC.</p> <p>(m) Land Useful or Essential for Preserving Connections Between Habitat Blocks and Open Spaces as defined in WAC 365-190-080.</p>

		<p>defined in WAC 365-190-080.</p> <p>(l) Areas of Rare Plant Species and High Quality Ecosystems as defined in RCW 79.70</p> <p>(m) Land Useful or Essential for Preserving Connections Between Habitat Blocks and Open Spaces as defined in WAC 365-190-080.</p>		
<p>FW2: Water Type Classification system</p>	<p>SCC14.24.530 Fish & wildlife Habitat Conservation Area Mitigation Standards. WA State Department of Natural Resources Water Types 1-5 WAC 222-16-030</p>	<p>SCC14.24.510 Fish & Wildlife Habitat Conservation Area Water Type System. (1) Water Types shall be classified according to WAC 222-16-030. Water Types: Type S: Type S waters are all water inventoried as “Shorelines of the state” under chapter 90.58 RCW. Type F: Type F waters include those waters that are used by salmonids, have the potential to support salmonid or other fish species Type Np: Type Np waters include those which are Perennial during a year of normal rainfall and do not have the potential to be used by salmonids. Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations then the point of perennial flow should be determined using the best professional judgment of a qualified professional. Type Ns: Type Ns waters which are Seasonal or ephemeral during a year of normal rainfall and do not have the potential to be used by salmonids.</p>	<p>Conversion from old DNR Water Type codes to new DNR Water Type codes.</p> <p>Per RCW 365-190-080(5) Fish and Wildlife Habitat Conservation Areas include “Waters of the State”</p> <p>RCW365-190-080(5)(c) (vi) Waters of the state. Waters of the state are defined in Title 222 WAC, the forest practices rules and regulations. Counties and cities should use the classification system established in WAC 222-16-030 to classify waters of the state.</p> <p>The new water types have been adopted by DNR for Western Washington and the old numeric codes and maps will not be updated or maintained by DNR.</p>	<p>SCC14.24.510 Fish & Wildlife Habitat Conservation Area Water Type System. (1) Water Types shall be classified according to WAC 222-16-030. Water Types: Water types shall be classified according to WAC 222-16-030. Type S streams include shorelines of the state and have flows averaging twenty (20) or more cubic feet per second; Type F streams are those that are not Type S but still provide fish habitat; and Type N streams do not have fish habitat and are either perennial (Np) or seasonal (Ns). All streams are those areas where surface waters flow sufficiently to produce a defined channel or bed as indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. Ns streams must be physically connected by an above-ground channel to Type S, F, or Np Waters.</p> <p>The CAC recommended reference to the WAC for</p>

				<p>definitions of each water type. Upon further review staff proposes to modify the definitions to provide the reader with some information about each water type.</p>																								
<p>FW3: Changes to Stream Buffer Sizes</p>	<p>SCC14.24.530 (2) Standard Riparian Buffers. Type 1 and 2 200 feet Type 3 100 feet Type 4 and 5 50 feet</p>	<p>SCC14.24.530 (2) Standard Riparian Buffers. Type S 200 feet Type F>5ft.wide 150 feet Type F<5ft.wide 100 feet Np 50 feet Ns 50 feet</p>	<p>Standards have changed based on utilization of new DNR stream typing.</p> <p>Some formally Type 2 now Type F waters will have decreased buffers.</p> <p>Some formally Type 3 now Type F will have increased buffers. Type F variable buffer widths based on guidance from CTED.</p>	<p>SCC14.24.530 (2) Standard Riparian Buffers. Proposed standard buffer widths are the same as proposed to the CAC.</p> <p>The CAC generally supported the proposed riparian setbacks. There was discussion of the 5' width break.</p>																								
<p>FW4: Changes to Lake and Marine Buffer sizes</p>	<p>14.24.530(2) Standard Riparian Buffers. In areas adjacent to lakes having Urban or Rural Residential designations under the Skagit County Shorelines Master Program, the standard riparian buffer shall be consistent with the standard setback associated with that Shorelines designation.</p>	<p>SCC14.24.530 (2) Standard Riparian Buffers. (a) Lake and marine shorelines standard buffers will be determined by the Shoreline Area Designation as defined by the Shoreline Master Program (SCC14.26).</p> <table border="0"> <thead> <tr> <th>SMP Designation</th> <th>Buffer</th> </tr> </thead> <tbody> <tr> <td>Natural</td> <td>250 feet</td> </tr> <tr> <td>Conservancy</td> <td>200 feet</td> </tr> <tr> <td>Rural</td> <td>150 feet</td> </tr> <tr> <td>Rural Residential</td> <td>50 feet</td> </tr> <tr> <td>Urban</td> <td>35 feet</td> </tr> </tbody> </table>	SMP Designation	Buffer	Natural	250 feet	Conservancy	200 feet	Rural	150 feet	Rural Residential	50 feet	Urban	35 feet	<p>There is limited guidance about how the protections under the Shoreline Management Act and the Growth Management Act are integrated.</p> <p>CTED and DOE assembled a fact sheet of questions and answers that includes: 1. <i>Shorelines of statewide significance may include critical areas, but are not critical areas.</i> 2. <i>If the local government updates its critical areas ordinance under the GMA before it updates its Shoreline Master Program then the GMA BAS requirements will apply to the critical area update in the shoreline jurisdiction until the SMP is updated.</i></p>	<p>SCC14.24.530 (2) Standard Riparian Buffers. (a) Lake and marine shoreline standard buffers will be determined by the Shoreline Area Designation as defined by the Shoreline Master Program (SCC14.26).</p> <table border="0"> <thead> <tr> <th>SMP Designation</th> <th>Buffer</th> </tr> </thead> <tbody> <tr> <td>Natural</td> <td>200 feet</td> </tr> <tr> <td>Conservancy</td> <td>150 feet</td> </tr> <tr> <td>Rural</td> <td>100 feet</td> </tr> <tr> <td>Rural Residential</td> <td>100 feet</td> </tr> <tr> <td>Urban</td> <td>140 feet</td> </tr> </tbody> </table> <p>Some members of the CAC wanted to retain existing setbacks identified in the SMP. A few felt that both 50ft. and 35ft. were insufficient to protect fish and wildlife habitat conservation areas. The public</p>	SMP Designation	Buffer	Natural	200 feet	Conservancy	150 feet	Rural	100 feet	Rural Residential	100 feet	Urban	140 feet
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			Using SMP designations the proposed revisions on riparian buffers are intended to bridge the gap between the setbacks identified in the SMP and the proposed Riparian buffers in 14.24.530 based on BAS.	release draft increases setbacks in the Rural Residential and Urban Shoreline designations and decreases setbacks proposed to the CAC to be consistent with BAS and the jurisdictional area of the SMP.
FW5: Buffer Increasing	<p>SCC14.24.530(2)(a) Increasing Buffer Widths</p> <p>The Administrative Official has the authority to increase the standard buffer width on a case-by-case basis, or to establish nonriparian buffer widths, when such buffers are necessary to protect priority, fish or wildlife (e.g., great blue heron nesting colonies, osprey or cavity nesting ducks) using the HCA. This documentation shall be supported by appropriate documentation from the Departments of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the HCA.</p>	<p>SCC14.24.530(3) (a) Increasing Buffer Widths</p> <p>The Administrative Official has the authority to increase the standard buffer widths on a case-by-case basis, or to establish nonriparian buffer widths, when necessary for one of the following:</p> <p>(i) to protect fish or wildlife (e.g., great blue heron nesting colonies, osprey or cavity nesting ducks) using the HCA. This documentation shall be supported by appropriate documentation from the Departments of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the HCA.</p> <p>(ii) To provide connectivity when a type S or F waterbody is located within 300 ft of : Another S or F waterbody or a fish and wildlife HCA or a Category 1,2, or 3 wetland</p>	<p>Allows buffer increases when necessary to protect certain species and to maintain connectivity between critical areas.</p> <p>Added language provides guidance about when to require a buffer increase.</p>	<p>SCC14.24.540(1) (a) Increasing Buffer Widths</p> <p>The same as presented to the CAC except the following:</p> <p>(a) to protect priority fish or wildlife (e.g., great blue heron nesting colonies, osprey or cavity nesting ducks) using the HCA. This documentation shall be supported by appropriate documentation from the Departments of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the HCA...</p> <p>The CAC generally preferred the general language in the existing code. Staff has found that without specific criteria identified in code, buffer increases are not proposed in site assessments.</p>
FW6: Buffer Decreasing	<p>SCC14.24.530 (2) (b) Decreasing Buffer Widths.</p> <p>Decreasing standard buffers will be allowed only if the Applicant demonstrates that all of the following criteria are met:</p>	<p>SCC14.24.530 (3) (b) Decreasing Buffer Widths.</p> <p>Buffers may be reduced when buffer reduction impacts are mitigated and result in equal or greater protection of the stream function.</p>	<p>This section adds more flexibility and specific incentives based on BAS to allow for specific reductions in buffer size. Variances still allow for buffer reductions below the 25%</p>	<p>SCC14.24.540 (3) Decreasing Buffer Widths.</p> <p>The same as presented to the CAC except:</p> <p>vii. 20% for offsite, if onsite not possible</p>

	<p>(i) Buffer width ave. is not possible (ii) A decrease is necessary (iii) Decreasing will not affect functions and values (iv) The remaining buffer will be enhanced (v)The buffer shall not be reduced below 50% of standard unless no reasonable alternative exists and no net loss of HCA riparian functional values will result, based on a functional assessment</p>	<p>Must first apply mitigation sequencing. Can be reduced up to 25% with incentive based options: i. 20% installation biofiltration/infiltration mechanisms ii. Up to 20% for removal of existing impervious surfaces iii. 10% removal of invasive, non-native vegetation iv. Up to 25% for in-stream habitat enhancement v. 10% for stormwater quality control vi. 10% for use of pervious material vii.20% for offsite, if onsite not possible viii. 10% removal of significant refuse or toxic material ix. 10% for preservation of existing native vegetation or restoration of native vegetation in the nearshore x. 10% vegetation management plan xi. 10% for limiting lawn to 20% & maintaining native vege xii.25% shoreline access location to avoid areas of greater sensitivity and habitat value. (If the remaining buffer is degraded it must be replanted with native vegetation) (d) Buffer Width Variance Standard buffer widths may be reduced by more than 25% through a variance provided certain criteria are met (SCC14.24.140).</p>	<p>reduction threshold.</p>	<p>ix. 10% for preservation of existing native vegetation or restoration of native vegetation in the nearshore xiii.25% shoreline access location to avoid areas of greater sensitivity and habitat value. Added: j. Native vegetation enhancement within a fish and wildlife HCA or its buffer: up to twenty-five percent (25%) reduction in standard buffer width if identified as a benefit to the functions and values in the site assessment. k. Retention of existing vegetation: up to twenty-five percent (25%) reduction in standard buffer width with a previously established densely vegetated buffer that protects the functions and values of the HCA. The CAC strongly supported a process to allow an applicant to reduce the standard buffer to 50% of the standard based on site specific circumstances without triggering a Level 2 Hearing Examiner variance. An Administrative variance process was developed for to allow this (14.24.140).</p>
<p>FW7:Removal of Performance Based Riparian Standards</p>	<p>14.24.520(4) Allowed Uses in HCAs or Buffers. (f) Performance Based Riparian Standards</p>	<p>Proposed removal of this section.</p>	<p>This section was not utilized by applicants. It was found to be too costly to implement and difficult to demonstrate</p>	<p>Proposed removal of this section.</p>