

## VOLUNTARY STEWARDSHIP PROGRAM

### STATEWIDE ADVISORY COMMITTEE AND CONSERVATION COMMISSION

#### POLICY ADVISORY #06-21

### *THE VOLUNTARY STEWARDSHIP PROGRAM AND “NEW” AGRICULTURAL ACTIVITIES*

**APRIL 2021**

#### **Purpose**

The purpose of this advisory is to clarify the application of the Voluntary Stewardship Program (VSP) to “new” agricultural activities.

#### **Clarification of the application of VSP to “new” agricultural activities**

For VSP counties, existing and ongoing agricultural activities (as defined in RCW 36.70A.703 (1)) fall under VSP. Any “new” agricultural activities as described and clarified in the bulleted list below are initially covered by the county CAO. Once the “new” agricultural activity is installed, it is considered an existing and ongoing agricultural activity, and would then be governed by VSP.

“New” agricultural activities are NOT

- Existing and ongoing agricultural activities on agriculture land,
- Changes in agricultural activity on agricultural land (for example, changing from one crop to another).

“New” agricultural activities are

- Activities that have not been conducted before, **and**
- Are proposed to take place on land not previously used for agriculture.

The VSP uses the Shoreline Management Act (SMA) definition for “Agricultural activities.”<sup>1</sup>

### **RCW 90.58.065**

#### **Application of guidelines and master programs to agricultural activities.**

(1) The guidelines adopted by the department and master programs developed or amended by local governments according to RCW [90.58.080](#) shall not require modification of or limit agricultural activities occurring on agricultural lands. In jurisdictions where agricultural activities occur, master programs developed or amended after June 13, 2002, shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and development not meeting the definition of agricultural activities. Nothing in this section limits or changes the terms of the current<sup>2</sup> exception to the definition of substantial development in RCW [90.58.030](#)(3)(e)(iv). This section applies only to this chapter, and shall not affect any other authority of local governments.

(2) For the purposes of this section:

(a) "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural

<sup>1</sup> See [RCW 36.70A.703\(1\)](#) and [RCW 90.58.065 \(2\) \(a\)](#)

<sup>2</sup> Reviser's note: "Current" first appears in chapter 298, Laws of 2002.

activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

(b) "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products;

(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing fruit or vegetables; and

(d) "Agricultural land" means those specific land areas on which agriculture activities are conducted.

(3) The department and local governments shall assure that local shoreline master programs use definitions consistent with the definitions in this section.

VSP agricultural activities in shoreline areas are subject to local Shoreline Master Programs, whether they are existing/ongoing, or new, as defined in the SMA.

## Practical application of the definition of agricultural activities in VSP

- Each county, watershed work group, and VSP technical service provider should conduct outreach and education to agricultural producers on
  - What is considered “new” agriculture and what is considered “existing/ongoing” agriculture, and the applicability of VSP and the VSP work plan in their county;
  - How voluntary practices can assist in protecting (and enhancing) critical areas while maintaining agricultural viability, and
  - How to participate in VSP.
- VSP applies to all agricultural activities in participating watersheds, regardless of whether an individual landowner participates in VSP or not. The alternative option to regulatory protection that is available in VSP-participating counties is specific to the protection and enhancement of critical areas that would otherwise be governed by the CAO. Non-participating watersheds are governed by the CAO. All other non-CAO development regulations (e.g. building permits, clearing and grading permits, etc.) and requirements would still apply to all landowners, in addition to other statutory requirements (e.g. the Clean Water Act, the Endangered Species Act, etc.).
- Changes made to existing and ongoing agricultural activities – such as changing crop types or expanding facilities – fall under VSP, not the CAO. Refer to illustrated examples #1-2 below for more information.
- For “new” agricultural activities, the county CAO would apply to the *initial* installation and construction. Moving forward, the county VSP work plan and not the county CAO would apply to subsequent agricultural activities **within that same footprint**. Refer to illustrated example #3 below for more information.

## Examples

For purposes of the following examples:

- The examples below only apply to VSP counties.
- Agricultural activity is defined in RCW 36.70A.703 (1).
- An agricultural structure is an agricultural activity or facility as defined in the VSP statute in RCW 36.70A.703 (1).<sup>3</sup>
- All local, state and federal development regulations apply.<sup>4</sup>
- Where the VSP work plan applies, the county CAO does not.
- We recommend that any proposal for changing agricultural activities, or a proposal for installation of a “new” agricultural activity should be considered by the county watershed work group in their adaptive management of their work plan.

Below, the following four scenarios are outlined in more detail:

Example #1: On existing agricultural land, a different or alternate agricultural activity (crop change) is intended.

Example #2: On existing agricultural land, a different or alternate agricultural activity (improved shed) is intended.

Example #3: On land not previously or currently used for agriculture, a “new” agricultural activity (construction of shed) is intended.

---

<sup>3</sup> County planning departments should consider their county code regarding agricultural structure size, intended use, and intensity of that use when considering impacts to critical area functions and values and agricultural viability.

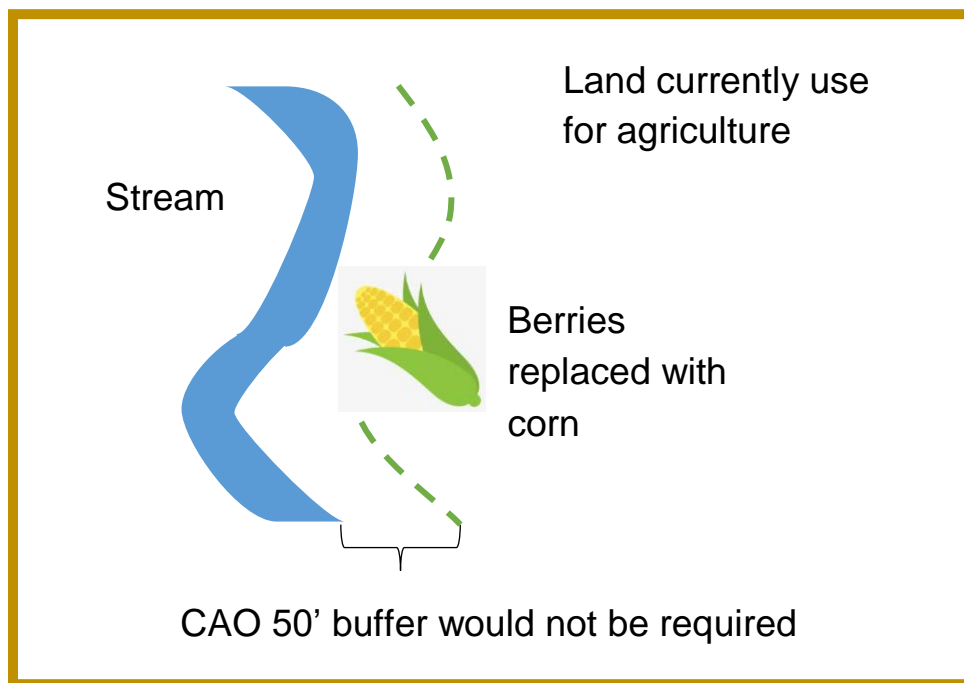
<sup>4</sup> See RCW 36.70A.030, RCW 36.70A.700, RCW 36.70A.702 (5) and RCW 36.70A.710 (1) ( a)

Example #1: On land currently used for agriculture, a different or alternate agricultural activity is intended.

Narrative: A landowner has land presently in agriculture and now wishes to engage in a different or alternate agricultural activity, which in this case, means switching crops from berries to corn.

Result: The county VSP work plan would apply to the different or alternative agriculture activity, and therefore, the county CAO would *not* apply. Because the CAO does not apply, even though the county CAO required a 50' buffer, the landowner would not have to establish that buffer. The landowner *could* put the different or alternate crop anywhere on the portion of that land that meets the definition of agricultural activity. See Figure 1, below, and the agricultural activities decision tree at the end of this document.

Figure 1.



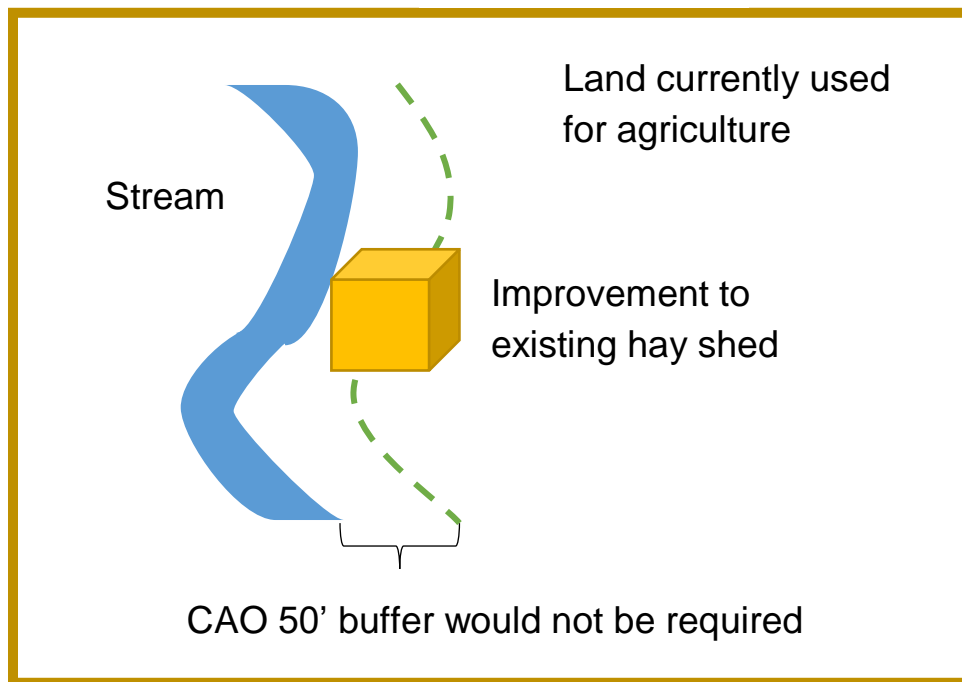
Example #2: On land currently used for agriculture, a different or alternate agricultural activity is intended.

Narrative: A landowner has land presently in agriculture and now wishes to engage in a different or alternate agricultural activity, which in this case, means maintaining, repairing, and replacing an agricultural facility or structure. For example, improving a hay shed.

Result: The county VSP work plan would apply to the different or alternative agriculture activity or structure, and therefore, the county CAO would *not* apply. Maintenance and/or repair generally assumes no change in footprint.

When replacing an existing agricultural structure within shoreline jurisdiction, if the landowner wants to locate the replacement structure closer to the shoreline, then review as “new” agriculture would be triggered. See Figure 2, below, and the agricultural activities decision tree at the end of this document.

Figure 2.

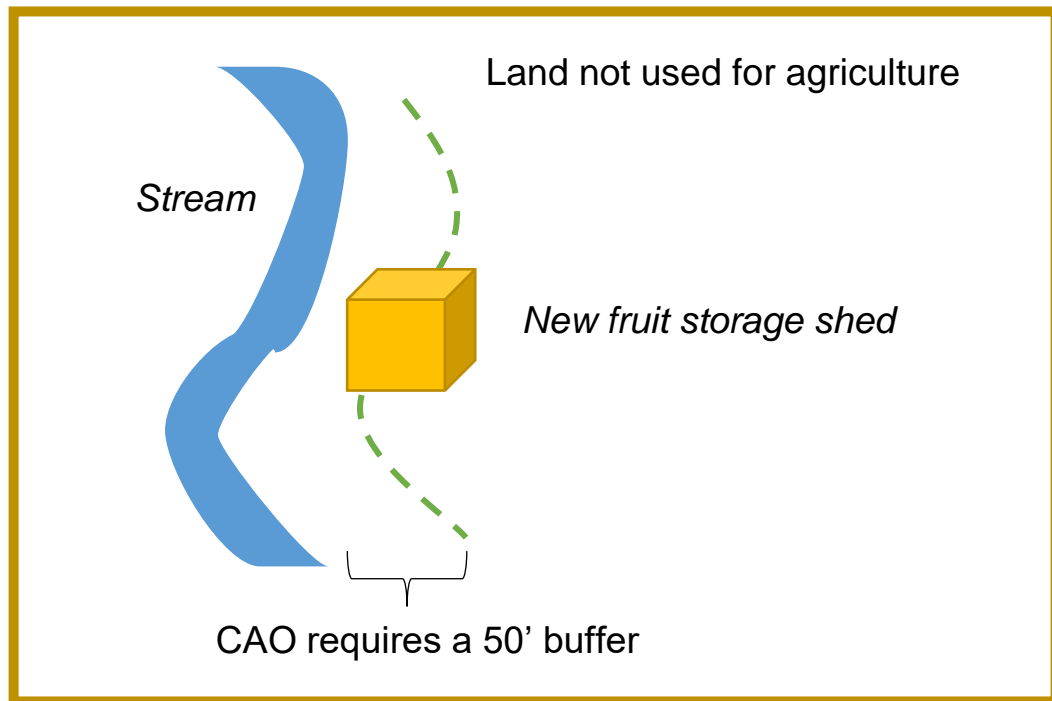


Scenario #3: On land not previously or currently used for agriculture, a “new” agricultural activity (construction of shed) is intended.

Narrative: A landowner wishes to install a “new” agricultural activity on non-agricultural land. For example, constructing a fruit storage structure. Before and during installation, the “new” agricultural activity that occurs on land not previously used for agriculture invokes the county CAO, and is *not* governed by the VSP county work plan.

Result: The county CAO would apply to the *initial* installation and construction of the “new” agricultural activity. Moving forward, the county VSP work plan and not the county CAO would apply to subsequent agricultural activities **within that same footprint**. See Figure 3, below, and the agricultural activities decision tree at the end of this document.

Figure 3.





## Background

The Conservation Commission (Commission) is empowered to establish policies and procedures for implementing the Voluntary Stewardship Program (VSP).<sup>5</sup> The Commission, after consultation with the VSP Statewide Advisory Committee (SAC), provides this advisory to the VSP county work groups to advise them on the roles and reporting obligations during VSP implementation.

The VSP is codified in RCW Chapter 36.70A.700 and the Commission administers the VSP.<sup>6</sup> Under the VSP, the Commission is charged with establishing the Statewide Advisory Committee.<sup>7</sup> “The role of the statewide advisory committee is to advise the commission and other agencies involved in development and operation of the program.”<sup>8</sup> The SAC is intended to be comprised of a total of eight individuals, with two representatives each for counties, agricultural organizations, environmental organizations, and invited tribal governments.<sup>9</sup>

The Commission has a number of other duties in the VSP that relate to the Statewide Advisory Committee, including:

- Provide administrative support for the program's statewide advisory committee in its work.”<sup>10</sup>
- Maintain a website about the program that includes times, locations, and agenda information for meetings of the statewide advisory committee;<sup>11</sup>
- Conduct a review of the program beginning in 2017 in conjunction with the statewide advisory committee and every five years thereafter, and report its findings to the legislature by December 1st;<sup>12</sup>
- Consult with the Statewide Advisory Committee upon receipt of a report by a watershed work group under RCW [36.70A.720](#)(2)(b);<sup>13</sup> and

---

<sup>5</sup> [RCW 36.70A.705\(2\)\(a\)](#)

<sup>6</sup> [RCW 36.70A.705\(1\)](#)

<sup>7</sup> [RCW 36.70A.745](#)

<sup>8</sup> [RCW 36.70A.745\(2\)](#)

<sup>9</sup> [RCW 36.70A.745\(1\)\(a\)](#)

<sup>10</sup> [RCW 36.70A.705\(2\)\(h\)](#)

<sup>11</sup> [RCW 36.70A.705\(2\)\(i\)](#)

<sup>12</sup> [RCW 36.70A.705\(2\)\(k\)](#)

<sup>13</sup> [RCW 36.70A.730](#)

- 
- Consult with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, and 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.<sup>14</sup>

---

<sup>14</sup> [RCW 36.70A.740\(4\)](#)

## Voluntary Stewardship Program (VSP) Decision Tree for Applying the Definition of Agricultural Activities on Local Lands

A tool for deciding how to apply VSP in a VSP county for local planning purposes

*This document is designed to give a heads up to agricultural activity project managers, planners, and technical service providers about how to apply the definition of agricultural activities in a VSP county to potential agricultural activity project. It will help prepare for, not circumvent, coordination meetings with your local county VSP work group so that VSP can be successfully implemented in your county.*

		Start here ▼		
Proceed to next center cell below ▼	◀ Yes	Will the new agricultural activity be located on land included in the county's VSP opt-in ordinance?	No ▶	Skip to the last cell in this column below
Proceed to next center cell below ▼	◀ Yes	Will the new agricultural activity be located on existing or on-going agricultural lands?	No ▶	Proceed to the next center cell below ▼
Proceed to next center cell below ▼	◀ Yes	Is the new agriculture activity going to be conducted in the same footprint as an existing or on-going agriculture activity	No ▶	Skip to the last cell in this column below
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve producing, breeding, or increasing agricultural products?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve rotating and changing agricultural crops?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve allowing land used for agricultural activities to lie	No ▶	Proceed to next center cell below ▼

		dormant as a result of adverse agricultural market conditions?		
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Is the land in the agricultural activity subject to a conservation easement?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve conducting agricultural operations?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve maintaining, repairing, and replacing agricultural equipment?	No ▶	Proceed to next center cell below ▼
The agricultural activity is an agricultural activity, however, plumbing, electrical, and other building codes still apply to the structures and facilities; skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve maintaining agricultural lands under production or cultivation?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve feed or forage for livestock?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve Christmas trees?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve livestock including both the animals themselves and animal products including but not limited	No ▶	Proceed to next center cell below ▼

		to meat, upland finfish, poultry and poultry products, and dairy products?		
The agricultural activity is an agricultural activity, however, plumbing, electrical, and other building codes still apply to the structures and facilities; skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve agricultural equipment or agricultural facilities used in agricultural operations, including equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains?	No ▶	Proceed to next center cell below ▼
The agricultural activity is an agricultural activity, however, plumbing, electrical, and other building codes still apply to the structures and facilities; skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve agricultural equipment or agricultural facilities used in agricultural operations, including corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands?	No ▶	Proceed to next center cell below ▼
The agricultural activity is an agricultural activity, however, plumbing, electrical, and other building codes still apply to the structures and facilities; skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve agricultural equipment or agricultural facilities used in agricultural operations, including farm residences and associated equipment, lands, and facilities?	No ▶	Proceed to next center cell below ▼
The agricultural activity is an agricultural activity, however, plumbing, electrical, and other building codes still apply to the structures and facilities; skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve agricultural equipment or agricultural facilities used in agricultural operations, including roadside stands and on-farm markets for marketing fruit or vegetables?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve other agricultural uses and practices not identified above?	No ▶	Proceed to next center cell below ▼
Skip to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve other agricultural products not identified above?	No ▶	Proceed to next center cell below ▼
Proceed to the last cell in this column below ▼	◀ Yes	Does this agricultural activity involve other agricultural equipment or facilities not identified above?	No ▶	Proceed to last row below ▼

<p>The VSP definition of agricultural activities, as defined by RCW 36.70A.703 (1) applies to this agricultural activity, not the county CAO. If the agricultural activity involves structures or facilities, then plumbing, electrical, and other building codes still apply to those structures and facilities. The County, County planning staff and the County VSP work group should discuss this agricultural activity so that the County VSP work plan can be adaptively managed to account for this agricultural activity.</p>	<p>◀ Yes</p>		<p>No ▶</p>	<p>The definition of agricultural activities does not apply to this agricultural activity, VSP does not govern this agricultural activity. All other laws, regulations and ordinances (local, state, and federal, including the county's CAO), apply to this agricultural activity. The governmental entity with regulatory authority decides if regulatory action needs to be taken.</p>
		<p>Done!</p>		