Voluntary Stewardship Program

An Alternative Approach to GMA and CAOs

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VSP Background

• All counties must adopt a critical areas ordinance protecting critical areas.
• Several counties exempted agriculture from CAO.
• Trend of board decisions in early 2000’s agriculture not exempt from CAO requirements.
• Concerns in agriculture community about regulation impacting agriculture value.
• Environmental concerns of agriculture impact to critical areas – both ongoing and future agriculture.
• Counties concerned re costs of appeals.
VSP History

• 2006 – Initiative 933 addressing taking of agricultural lands due to regulations. Fails by 60%.

• 2007 – State Supreme Court Case Swinomish v. Skagit Co. – Agriculture not exempt from critical areas requirements of GMA. Counties must regulate agriculture in CAO.

• 2007 - Legislature charged the Ruckelshaus Center to examine the conflict between protecting agricultural land and protecting critical areas in local ordinances adopted under the GMA.

• 2010 – Agreement is reached and legislation introduced in 2011 – ESHB 1886 – but no funding until 2015.

• Under the VSP statute, counties are not obligated to implement VSP until funding is provided
Promote plans to **protect and enhance critical areas within the area where agricultural activities** are conducted, while maintaining and improving the long-term **viability of agriculture** in the state of Washington and reducing the conversion of farmland to other uses;

Focus and **maximize voluntary incentive programs** to encourage good riparian and ecosystem stewardship as an alternative to historic approaches used to protect critical areas;

Rely upon RCW **36.70A.060** for the protection of critical areas for those counties that do not choose to participate in this program;

Leverage existing resources by relying upon existing work and plans in counties and local watersheds, as well as **existing state and federal programs** to the maximum extent practicable to achieve program goals;

Encourage and foster a spirit of **cooperation and partnership** among county, tribal, environmental, and agricultural interests to better assure the program success;

**Improve compliance** with other laws designed to protect water quality and fish habitat; and

Rely upon **voluntary stewardship practices as the primary method** of protecting critical areas and not require the cessation of agricultural activities.
Relationship to GMA

- Legislation creating VSP added new sections to GMA statute, codified at RCW 36.70A.700-760.

- VSP is an alternative approach to protecting critical areas in areas used for agricultural activities.

- VSP is created in the Conservation Commission.

- VSP focus on agricultural activities rather than ag land designations. Ag activities are defined in Shoreline Management Act (RCW 90.58.065).
What are the Five Critical Areas VSP seeks to Protect?

1. Wetlands
2. Areas with a critical recharging effect on aquifers used for potable water
3. Fish and wildlife habitat conservation areas
4. Frequently flooded areas
5. Geologically hazardous areas
VSP Overview

• Counties were given two options:
  – Opt-in to the voluntary stewardship program, or
  – Continue under existing law in GMA to protect critical areas on agricultural lands.

• Counties had 6 months from the effective date to select if they wanted to opt-in to the program.

• By the opt-in date of January 21, 2012 – 27 of 39 counties opted-in.
Opting-in

• Counties were 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; and
  - Nominate watersheds for consideration by the Commission as state priority watersheds.
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 watershed group.

- designate a watershed group
  - must confer with tribes and stakeholders before designating the watershed group.

- must acknowledge receipt of funds
  - Signing contract with the SCC – triggers timeline for completion of a work plan.
Designation of Watershed Group

• Must be designated when funds are made available.
• The designated watershed group must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed.
• County must:
  o “...confer with tribes and interested stakeholders before designating or establishing a watershed group.”
  o “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.”
• State and federal agencies can be very useful work group participants
Role of state agency staff in VSP development

- Counties and/or lead VSP entities are encouraged to invite state agency reps to participate on the work group.
- State agency staff should be able to provide information to help develop the work plan.
- The work plan must be reviewed by a state technical panel consisting of four state agencies.
- Early engagement of agencies at the work group level will improve the work product and chances for quick review and approval by the technical panel.
Developing your work plan

• Watershed work groups have 2 years 9 months of receipt of funds to prepare and submit a work plan.

• If no work plan is submitted by deadline:
  o SCC to engage stakeholder group in discussion with watershed group.
  o Must have work plan in 3 years or “fail out” of VSP
  o Statute defines what happens if a county “fails out”
How to start

- Collect and evaluate background information
  - E.g. Chelan County white paper

- 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 work group address?

• The work plan must:
  o Identify critical areas and ag activities
  o Identify economic viability of agriculture in county
  o Identify outreach plan to contact landowners
  o Identify entity to provide landowner assistance
  o Identify measurable programmatic and implementation goals and benchmarks
Work Plan Approval

- Once a county has completed a work plan, it is submitted to Commission Director for approval.
- Director submits the plan to a technical panel who has 45 days to review and make recommendation to the director.
- If no, director to work with the local work group and Statewide Advisory Panel for revisions.
- Once final approval, must implement.
- Every 5 years, local work group must report on progress to the Conservation Commission.
- If not making progress, must correct or be kick back into “traditional GMA approach”.

Technical Panel

"Technical panel" means the directors or director designees of the following agencies:

- WDFW
- WSDA
- Ecology
- WSCC

• The technical panel is to review the work plan and assess whether the plan, in conjunction with other plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

• If the technical panel determines the plan will accomplish its goals, the SCC director must approve the plan.

• If the technical panel determines the plan will not accomplish its goals, the SCC director must advise the watershed group the reasons for the disapproval.
Statewide Advisory Committee

- Director required to appoint and, in certain circumstances, consult with a statewide advisory committee.

- Consisting of two persons representing:
  - county government
  - agricultural organizations
  - environmental organizations

- The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.
Voluntary Stewardship Program Process

County opts in
Funding is provided
Local Watershed Group Identified

Local Watershed Group Develops Work Plan
Work Plan Identifies Critical Areas and Ag Activities
Work Plan Includes Measurable Benchmarks for Program and Resource Results

Work Plan Submitted to Conservation Commission for Approval
Reviewed by State Technical Team
Upon Approval, Sent to Watershed Group for Implementation

Local Groups Must Report on Progress Every Five Years
Must Show Progress on Benchmarks or Implement Adaptive Management Approaches

Local Group Implements Work Plan
Focused Outreach to Landowners to Develop Farm Lands Protecting Critical Areas
Status Reports Delivered to Conservation Commission Must Show Progress on Measureable Benchmarks
How does VSP fit with existing regulatory programs?

- Engagement in VSP is voluntary – for the county to opt-in, and for the landowner to participate.

- For an opt-in county, protection of critical areas from ag activities must be done through voluntary stewardship plans.

- Landowner not doing a stewardship plan is not subject to other local critical area regulations.

- But – other laws and regulations do still apply. State water quality laws, local clearing and grading ordinances, etc.
Work Plan Implementation

• “Traditional GMA” uses a regulatory approach – required buffers on each parcel with critical areas.

• VSP uses a voluntary approach – landowners use stewardship plans and voluntary programs.

• Voluntary programs have provisions for standards and practices for best management practices.

• Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas. 36.70A.750(1).
Work Plan Implementation

• If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices. RCW 36.70A.750(2).

• An agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract. RCW 36.70A.760.

• The watershed group must account for any loss of protection resulting from withdrawals when establishing goals and benchmarks for protection and a work plan. RCW 36.70A.760.
Various incentive programs are available to be identified in the landowner stewardship plan:

- CREP – Conservation Reserve Enhancement Program
- EQIP – Environmental Quality Incentive Program
- CSP – Conservation Stewardship Program
- ACEP – Agricultural Conservation Easement Program
- Conservation District Programs – Funded through SCC funding and other fund sources such as ECY water quality grants and local assessment funds.
Progress on Work Plan Implementation

• Not later than five years after the receipt of funding the watershed group must report to the director of the Conservation Commission and the county on whether it has met the work plan’s protection and enhancement goals and benchmarks.

• If the goals are being met, the watershed group continues to implement the work plan.

• If the goals and benchmarks are not being met the watershed group must submit to the director of the Conservation Commission an adaptive management plan to put the watershed group on a path to meet the goals.
Goals are programmatic and resource oriented:

• **Programmatic Goals** – Those measuring progress on implementation of the work plan. Include landowner participation and stewardship plan implementation.

• **Natural Resource Goals** – Are the identified critical areas being protected; is enhancement occurring on available funds.

• **Economic Resource Goals** – Is the viability of ag being protected and enhanced.
Can landowners opt-out of the stewardship plans and programs?

- Yes but withdrawal is conditional on the terms of any contractual agreements that may have been entered into for the installation of a practice.
- Under RCW 36.70A.760 an agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract.
- Creates a challenge for the watershed group who must still administer the program in a manner to achieve the goals and benchmarks identified in the work plan.
If a landowner does opt-out, what does that do to the overall success of the VSP in the county?

If a landowner withdraws from the program and any applicable contractual obligations for management practices are no longer in effect, the watershed group must account for any loss of protection resulting from such withdrawals when establishing goals and benchmarks for protection in the work plan. RCW 36.70A.720(2)(b)(iii)-(iv) and RCW 36.70A.760.
Progress on Work Plan Implementation

Key distinction between “traditional GMA” approach to protection of critical areas, and VSP approach:

“Traditional GMA” approach – must be able to demonstrate protection of critical areas at the parcel scale. Demonstration typically done through regulatory buffers combined with enforcement program. Efforts to use landowner plans have been questioned because of challenges related to being able to demonstrate protections are met.

VSP approach – relies on evaluation at a watershed scale. Demonstrate progress on work plan goals every 5 years. Focus is on critical area function rather than per parcel.
Work Plan Failure and Consequences

• Focus on fail-out scenario.

• When the director of the SCC concludes failure to meet goals and failure to develop adaptive management plan, work with the stakeholder group.

• If after six months no progress on improvements, county and watershed group are notified the work plan has failed.

• After notification, county has 18 months do take action.

• **NOTE:** Shift in roles and responsibilities from watershed group to the county.
Questions?

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