



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/1/89)

Agency: Department of Community Development

- Permanent Rule
 Emergency Rule

(1) Date of adoption: December 19, 1990 Administrative Order No. 90-03

(2) Purpose:
To adopt minimum guidelines to assist all counties and cities statewide in classifying agricultural lands, forest lands, mineral resource lands, and critical areas.

(3) Citation of existing rules affected by this order:
Repealed: Extended: Chapter 365-190 WAC
Amended:
Suspended:

(4) Authority for adoption:
Statute: RCW 36.70A.050
Other Authority:

(5.1) PERMANENT RULE ONLY
Pursuant to notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY
Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:
RCW 36.70A.050, Section 5, requires that minimum guidelines to assist all counties and cities statewide in classifying agricultural lands, forest lands, mineral resource lands, and critical areas be adopted by September 1, 1990.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:
See attachment

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 30 days after filing Immediately
 Other (specify) _____ * Later (specify) 12-28-90
*(If less than 30 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
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DEC 19 1990

TIME 4:20
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NAME (TYPE OR PRINT)
Chuck Clarke

SIGNATURE
Chuck Clarke

TITLE
Director

DATE
12-19-90

RECEIVED

DEC 07 1990

GROWTH MGMT
DIVISION

BASIS FOR EMERGENCY RULES

The order filed with the Office of the Code Revis^er in regard to the adoption of these emergency rules is based on the following circumstances:

The agency first adopted its emergency rules on AUGUST 31, 1990.

The agency also filed its notice to adopt the rules in permanent form with the Code Revis^er on October 24, 1990.

The date for formal adoption of the permanent rules was set for November 27, 1990. Prior to that time, the agency conducted meetings, workshops and other sessions around the state.

Public comment was received and considered.

The original deadline for submission and further public comment was NOVEMBER 5, 1990.

This deadline was subsequently extended.

Many new comments came in during the final period prior^{to} the formal hearing which resulted in changes to the proposed rules.

The agency is thus filing a supplemental notice of proposed rulemaking (RCW 34.05.340) to allow for reopening of the proceedings for public comment.

It is anticipated that there will be a variety of groups participating in submitting comments.

In the meantime, the original emergency rules will expire. However, since the agency has filed notice of its intent to adopt the proposed rules as permanent rules, and is actively undertaking the appropriate procedures to adopt them, the

emergency rules must be extended until the day of formal adoption of the permanent rules.

The adoption of the emergency rules for this period of time while proceeding with the adoption of the permanent rules is in accordance with RCW 34.05.350(2).

If further information is needed, interested persons should contact Steve Wells, Department of Community Development, 9th & Columbia Building, GH-51, Olympia, Washington 98504.

CHAPTER 365.190 WAC
MINIMUM GUIDELINES TO CLASSIFY
AGRICULTURE, FOREST, MINERAL LANDS AND CRITICAL AREAS

PART ONE - PURPOSE/AUTHORITY

NEW SECTION

WAC 365-190-010 AUTHORITY. This chapter is established pursuant to RCW 36.70A.050.

NEW SECTION

WAC 365-190-020 PURPOSE. The intent of this chapter is to establish minimum guidelines to assist all counties and cities statewide in classifying agricultural lands, forest lands, mineral resource lands, and critical areas. These guidelines shall be considered by counties and cities in designating these lands.

PART TWO - GENERAL REQUIREMENTS

NEW SECTION

WAC 365-190-030 DEFINITIONS. (1) Agricultural Land is land primarily devoted to the commercial production of horticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(a) Prime Farmland Soil is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming

methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable alkalinity or acidity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively eroded or saturated with water for long periods of time, and either do not flood frequently during the growing season or are protected from flooding. (See Part 603.05, National Soils Handbook, United States Department of Agriculture Soil Conservation Service.)

(b) Unique Farmland Soil is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. (See Part 603.05, National Soils Handbook, United States Department of Agriculture Soil Conservation Service.)

(c) Additional Farmland of Local Importance is land, in addition to prime and unique farmlands, that is of local importance for the production of food, fiber, forage and oilseed crops. Generally, additional farmlands of local importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. (See Part 603.05, National Soils Handbook, United States Department of Agriculture Soil Conservation Service.)

(2) Areas with a critical recharging effect on aquifers used for potable water includes areas where an aquifer which is an essential source of drinking water is vulnerable to contamination that would create a significant hazard to public health.

(3) Coal Mine Hazard Areas are those areas directly underlain by, adjacent to, or affected by abandoned coal mine workings such as adits, tunnels, drifts or air shafts.

(4) Critical Areas include the following areas and ecosystems:

- (a) Wetlands;
- (b) Areas with a critical recharging effect on aquifers used for potable water;
- (c) Fish and wildlife habitat conservation areas;
- (d) Frequently flooded areas; and
- (e) Geologically hazardous areas.

(5) Erosion Hazard Areas are those areas containing soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion hazard.

(6) Frequently Flooded Areas are lands in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

(7) Forest Land is land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

(8) Geologically Hazardous Areas are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

(9) Landslide Hazard Areas are areas subject to severe risk of landslide based on a combination of geologic, topographic, and hydrologic factors. They include the following:

(a) Any area characterized by:
(i) Slopes greater than 15 percent; and
(ii) Impermeable soils (typically silt and clay) frequently interbedded with permeable granular soils (predominately sand and gravel), or impermeable soils overlain with permeable soils; and,
(iii) Springs or groundwater seepage; or

(b) Any area which has shown movement during the Holocene epoch (from 10,000 years ago to present) or which is underlain by mass wastage debris of that epoch; or

(c) Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action; or

(d) Any area which shows evidence of, or is at risk from snow avalanches; or

(e) Any area located on an alluvial fan, presently subject to or potentially subject to inundation by debris flows or deposition of stream-transported sediments; or

(f) Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

(10) Long-term commercial significance includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

(11) Minerals include gravel, sand, and valuable metallic substances.

(12) Priority Habitats include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(13) Priority Species are those species that are of concern

due to their population status and their sensitivity to habitat manipulation. Priority species include those which are State-listed endangered, threatened, and sensitive species as well as other species of concern and game species that may not meet management objectives due in part to habitat manipulation or incompatible land uses.

(14) Public Facilities include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(15) Public Services include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(16) Seismic Hazard Areas are areas subject to severe risk of earthquake damage as a result of seismic induced settlement or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

(17) Volcanic Hazard Areas shall include areas subject to inundation by mudflows, lahars, or related flooding resulting from volcanic activity. The hazard area shall be delineated based on recurrence of an event equal in magnitude to the prehistoric Electron mudflow.

(18) Urban growth refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(19) Wetland or wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

PART THREE - GUIDELINES

NEW SECTION

WAC 365-190-040 PROCESS. (1) Classification is the first step in implementing RCW 36.70A.050. It means defining categories to which resource lands and critical areas will be assigned. After counties and cities define categories, their resource lands and critical areas will be inventoried according to those categories.

Pursuant to RCW 36.70A.170, resource lands and critical areas will be designated based on that inventory. Designation means, at least, formal adoption of a policy statement and may include further legislative action. Designating inventoried lands for comprehensive planning and policy definition may be less precise than subsequent regulation of specific parcels for conservation and protection.

Classifying, inventorying, and designating districts should not imply a change in a landowner's right to use his or her land under current law. Land uses are regulated on a parcel and innovative land use management techniques are applied when counties and cities adopt regulations, pursuant to RCW 36.70A.060, to conserve and protect designated resource lands and critical areas. The department of community development will provide technical assistance to counties and cities on a wide array of regulatory options and alternative land use management techniques.

These guidelines may result in critical area designations that overlay other land use classifications. That is, if two or more critical area designations apply to a given parcel, or portion of a given parcel, both or all designations apply. For counties and cities required or opting to plan under RCW 36.70A, reconciling these multiple designations will be the subject of local development regulations adopted pursuant to RCW 36.70A.060.

(2) Counties and cities shall consider the following procedures in classifying and designating natural resource lands and critical areas.

(a) Public Participation

(i) Each county and city should prepare a specific public participation plan to include the designation process and, where required, adoption of development regulations protecting resource lands and critical areas.

(ii) Counties and cities should consider using: technical and citizen advisory committees with broad representation, press releases, news conferences, neighborhood meetings, paid advertising (e.g., newspaper, radio, T.V., transit), newsletters, and other means beyond the required normal legal advertising and public notices. Plain, understandable language should be used. The department of community development will provide technical assistance in preparing public participation plans, including: a pamphlet series, workshops, and a list of agencies available to provide help.

(b) Adoption Process. Statutory and local processes already in place governing land use decisions are the minimum processes required for designation and regulation pursuant to RCW 36.70A.060 and RCW 36.70A.170. Beginning with classification, local decisions should incorporate public participation including using advisory committees with representation from all interested parties, adjacent counties and cities, and the general public. At least these steps should be included in the process:

(i) Accept the RCW 36.70A requirements, especially definitions of agricultural lands, forest lands, minerals, long-term commercial significance, critical areas, geologically hazardous areas, and wetlands as mandatory minimums.

(ii) Consider minimum guidelines developed by department of community development under RCW 36.70A.050.

(iii) Consider other definitions used by state and federal regulatory agencies.

(iv) Consider definitions used by the county and city and other counties and cities.

(v) Determine recommended definitions and check conformance with minimum RCW 36.70A definitions.

(vi) Adopt definition, classification, and standards.

(vii) Apply definitions to land, mapping designated resource lands.

(c) Intergovernmental Coordination. The RCW 36.70A requires coordination among communities and jurisdictions to reconcile conflicts and strive for consistent definitions, standards, and designations within their region. The minimum coordination process required under these guidelines may take one of two forms;

(i) Adjacent cities (or those with overlapping or adjacent planning areas); counties and the cities within them; and adjacent counties would provide each other notice of their intent to classify and designate resource lands and critical areas within their jurisdiction. Counties or cities receiving notice of who they feel are affected may provide comments and input to the notifying jurisdiction. The notifying jurisdiction specifies a comment period for those interested prior to adoption by the notifying jurisdiction. Within 45 days of the jurisdiction's date of adoption of classifications or designations, interested jurisdictions are supplied a copy of the proposal and provided an opportunity to give input to the adopting jurisdiction. Disputed classifications or designations may be resolved through the mediation process offered by the department of community development.

(ii) Adjacent jurisdictions; all the cities within a county; or all the cities and several counties may choose to cooperatively classify and designate resource lands and critical areas within their jurisdictions. Counties and cities by interlocal agreement would identify the definitions, classification, designation, and process that will be used to classify and designate lands within their areas. State and federal agencies or tribes may participate in the interlocal

agreement or be provided a method of commenting on designations and classifications prior to adoption by jurisdictions.

Counties and/or cities may begin with the notification option ("i" above) and choose to change to the interlocal agreement method prior to completion of the classification and designations within their jurisdictions. It is intended that state and federal agencies with land ownership or management responsibilities and Indian tribes with interests within the jurisdictions adopting classification and designation be consulted and input considered in the development and adoption of designations and classifications. The mediation process provided through department of community development is available to resolve disputes between local governments using either the notification or interlocal agreement method of coordinating between jurisdictions.

(d) Mapping. Although there is no specific requirement for inventorying or mapping either natural resource lands or critical areas, RCW 36.70A requires that counties and cities planning under RCW 36.70A adopt development regulations regulating uses adjacent to natural resource lands. Logically, the only way to regulate adjacent lands is to know where the protected lands are. Therefore, mapping natural resource lands is a practical way to make regulation effective.

For critical areas, performance standards are preferred, as any attempt to map wetlands, for example, will be too inexact for regulatory purposes. Standards will be applied upon land use application. Even so, mapping critical areas for information but not regulatory purposes, is advisable.

(e) Reporting. RCW 36.70A requires that counties and cities annually report their progress to department of community development. Department of community development will maintain a central file including examples of successful public involvement programs, interjurisdictional coordination, definitions, maps, and other materials. This file will serve as an information source for counties and cities and a planning library for State agencies and citizens.

(f) Evaluation. When counties and cities adopt a comprehensive plan, RCW 36.70A requires that they evaluate their designations and develop regulations to assure they are consistent with and implement the comprehensive plan. When considering changes to the designations or development regulations, counties and cities should seek interjurisdictional coordination and public participation.

(g) Designation Amendment Process. Land use planning is a dynamic process. Procedures for designation should provide a rational and predictable basis for accommodating change.

Land use designations must provide landowners and public service providers with the information necessary to make decisions. This includes: determining when and where growth will occur, what services are and will be available, how they might be financed, and what type and level of land use is reasonable and/or appropriate. Resource managers need to know

where and when conversions of rural land might occur in response to growth pressures and how those changes will affect resource management.

Designation changes should be based on consistency with one or more of the following criteria:

(i) Change in circumstances pertaining to the comprehensive plan or public policy.

(ii) A change in circumstances beyond the control of the landowner pertaining to the subject property.

(iii) An error in designation.

(iv) Inability to manage for natural resource use because of adjacent or nearby incompatible land use activities.

(h) Use of Innovative Land Use Management Techniques.

Resource uses have preferred and primary status in designated resource lands of long-term commercial significance. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques which minimize land use incompatibilities and most effectively maintain current and future resource lands.

Methods to conserve and protect agricultural and forest lands of long-term commercial significance should involve the purchase or transfer of development rights, fee simple purchase of the land, less than fee simple purchase, purchase with lease-back, buffering, land trades, conservation easements or other innovations which maintain current uses and assure the conservation of these resource lands.

Development in and adjacent to agricultural and forest lands of long-term commercial significance should recognize the land owner's right to farm or manage timber as prior rights in the land. Counties and cities should adopt right-to-farm provisions in zoning ordinances. Covenants or easements that recognize that farming and forest activities will occur should be imposed on land in a development. Where buffering is used it should be on land in the development unless an alternative is mutually agreed on by adjacent landowners.

NEW SECTION

WAC 365-190-050 AGRICULTURAL LANDS. (1) In classifying agricultural lands of long-term significance for the production of food or other agricultural products, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These categories incorporate consideration of growing capacity, productivity and soil composition of the land. Counties and cities shall also consider the combined effects of proximity to population areas

and the possibility of more intense uses of the land as indicated by:

- (a) The availability of public facilities;
 - (b) Tax status;
 - (c) The availability of public services;
 - (d) Relationship or proximity to urban growth areas;
 - (e) Predominant parcel size;
 - (f) Land use settlement patterns and their compatibility with agricultural practices;
 - (g) Intensity of nearby land uses;
 - (h) History of land development permits issued nearby;
 - (i) Land values under alternative uses; and
 - (j) Proximity of markets.
- (2) In defining categories of agricultural lands of long-term significance for agricultural production, counties and cities should consider using the classification of prime and unique farmland soils as mapped by the Soil Conservation Service. If a county or city chooses to not use these categories, the rationale for that decision must be included in its next annual report to department of community development.

(3) Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance shall include consultation with the Board of the local Conservation District and the local Agriculture Stabilization and Conservation Service Committee.

NEW SECTION

WAC 365-190-060 FOREST LAND RESOURCES. (1) In classifying forest land, counties and cities shall use the Private Forest Land Grades of the department of revenue (WAC 458-40-19300). This system incorporates consideration of growing capacity, productivity and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher Private Forest Land Grades. However, the presence of lower Private Forest Land Grades within the areas of predominately higher grades need not preclude designation as Forest Land.

Each county and city shall determine which Land Grade constitutes forest land of long-term commercial significance based on local and regional physical, biological, economic and land use considerations.

Counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

- (a) The availability of public services and facilities conducive to the conversion of forest land.
- (b) The proximity of forest land to urban and suburban

areas and rural settlements: forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements.

(c) The size of the parcels: forest lands consist of predominantly large parcels.

(d) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance.

(e) Property tax classification: property is assessed as open space or forest land pursuant to RCW 84.33 or RCW 84.34.

(f) Whether the land has a higher and better use than for long-term commercial forest land.

(g) The proximity of the land to markets.

(h) History of land development permits issued nearby.

NEW SECTION

WAC 365-190-070 MINERAL RESOURCE LANDS. (1) Classification Criteria. Areas shall be classified into Mineral Resource Lands based on geologic, environmental and economic factors, existing land uses and land ownership. The areas to be studied and their order of study shall be specified by counties and cities.

(a) Counties and cities must classify the following minerals: sand, gravel, and valuable metallic substances.

(b) In classifying these areas, counties and cities shall use maps and information on location and extent of mineral deposits provided by the Washington State department of natural resources. Additionally, the department of natural resources has a detailed minerals classification system counties and cities may choose to use.

(2) Source of Data. Counties and cities may seek additional information from private land owners to supplement information from the department of natural resources.

NEW SECTION

WAC 365-190-080 CRITICAL AREAS. (1) Wetlands. In designating wetlands, counties and cities shall use the definition of wetlands in RCW 36.70A.030(17). Counties and cities are requested and encouraged to make their actions consistent with the intent and goals of "Protection of Wetlands," Executive Orders 89-10 and 90-04 as they exist on September 1, 1990. Additionally, local governments should consider wetlands protection guidance provided by the department of ecology.

(a) Counties and cities that do not now rate wetlands shall consider a wetlands rating system to reflect the relative function, value and uniqueness of wetlands in their jurisdictions. In developing wetlands rating systems, counties and cities should consider the following:

- (i) The Washington State Four-tier Wetlands Rating System;
- (ii) Wetlands functions and values;
- (iii) Degree of sensitivity to disturbance;
- (iv) Rarity; and
- (v) Ability to compensate for destruction or degradation.

If a county or city chooses to not use the State Four-tier Wetlands Rating System, the rationale for that decision must be included in its next annual report to department of community development.

(c) Counties and cities may use the National Wetlands Inventory as an information source to classify wetlands. This inventory provides maps of wetland areas according to the definition of wetlands issued by the United States Department of Interior - Fish and Wildlife Service, and its wetland boundaries should be reviewed consistent with the wetlands definition in RCW 36.70A.170(3).

(d) Counties and cities should consider the methodology in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, cooperatively produced by the United States Army Corps of Engineers, United States Environmental Protection Agency, United States Department of Agriculture Soil Conservation Service, and United States Fish and Wildlife Service, that was issued in January 1989.

(2) Aquifer Recharge Areas. In designating areas with a critical recharging effect on aquifers used for potable water, counties and cities should consider the following criteria:

- (a) The availability of adequate information on the location and extent of the aquifer;
- (b) The vulnerability of the aquifer to contamination that would create a significant hazard to public health. In determining vulnerability, the preferred method is a hydrogeologic analysis of a proposed area. In determining vulnerability without such an analysis, the following factors should be considered:

- (i) Depth of groundwater;
- (ii) Macro and micro permeability of soils;
- (iii) Types of soils;
- (iv) Presence of potential sources of contamination; and
- (v) Other relevant factors for the area in question;

(c) The extent to which the aquifer is an essential source of drinking water.

(d) Examples of areas with a critical recharging effect on aquifers used for potable water, may include:

(i) Sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act where there is evidence the aquifer is vulnerable to contamination that would create a significant hazard to public health.

(ii) Areas established for special protection pursuant to a groundwater management program, Chapters 90.44 and 90.54 RCW, and Chapter 173-100 WAC.

(iii) Areas designated for well head protection pursuant to the Federal Safe Drinking Water Act.

(iv) Other areas meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" in these guidelines.

(3) Frequently Flooded Areas. Classifications of frequently flooded areas shall be consistent with the floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

(a) Counties and cities shall consider the following when designating and classifying frequently flooded areas:

(i) Flooding impact to human health, safety, and welfare, and to public facilities and services;

(ii) Available documentation including federal, state, and local laws, regulations, and programs, local maps and federally subsidized flood insurance programs.

(4) Geologically Hazardous Areas.

(a) Geologically hazardous areas pose a threat to the health, safety, and welfare of citizens when construction or incompatible uses are permitted in areas of significant hazard. Counties and cities that do not now classify geological hazards shall use the following categories to classify Geologically Hazardous Areas:

(i) GH1 Areas where adequate information indicates that no significant geological hazard is present or where it is judged that there is little likelihood for its presence.

(ii) GH2 Areas where adequate information indicates that significant geological hazard is present or where it is judged that there is a high likelihood for its presence.

(iii) GH3 Areas containing a geological hazard the significance of which cannot be evaluated from available data.

(iv) GH4 Areas where available information to evaluate a geological hazard is inadequate.

(b) Counties and cities may use the following when determining the significance of geologically hazardous areas:

(i) Potential economic, health, and safety impacts related to building in geologically hazardous areas;

(ii) Soil type (from a soil profile), slope, vegetative cover, and climate of area; and

(iii) Available documentation describing a history of soil movement, the presence of mass wastage debris, rapid stream incision, streambank erosion, or undercutting by wave action, evidence of risk from snow avalanche, or the presence of an alluvial fan which may be subject to inundation by debris flows or deposition of stream-transported sediments.

(c) Counties and cities may establish a rating system for describing the risk to development on geologically hazardous sites. The department of ecology developed the following levels which counties and cities may use:

- (i) Low risk -- standard foundation systems and site preparation techniques are expected to result in an acceptable level of risk.
- (ii) Intermediate risk -- standard foundation systems and site preparation techniques may be acceptable, but only with confirmation by a geotechnical report.
- (iii) High risk -- standard foundation systems and site preparation techniques are unlikely to be acceptable. A geotechnical report is required for recommendation of special foundation designs and site preparation techniques.
- (iv) High erosion hazard shall at least be as defined by the United States Department of Agriculture - Soil Conservation Service including areas having a "severe" erosion hazard and a "rapid" surface runoff. Slopes shall be as defined by the United States Department of Agriculture - Soil Conservation Service including areas having a "severe" limitation due to slope for building site development; and lands designated or mapped as Class 3, 4, or 5 USGS as a Class U (Unstable), Uos (Unstable old slides), or Urs (Unstable recent slides) by the department of ecology Coastal Zone Atlas.
- (v) Landslide hazard areas shall include areas subject to severe risk of landslide based on a combination of geologic, topographic and hydrologic factors. They include the following:
- (A) Any area characterized by:
- (i) Slopes greater than 15 percent; and
- (ii) Impermeable soils (typically silt and clay) frequently interbedded with permeable granular soils (predominately sand and gravel), or impermeable soils overlain with permeable soils; and,
- (iii) Springs or groundwater seepage; or
- (B) Any area which has shown movement during the Holocene epoch (from 10,000 years ago to present) or which is underlain by mass wastage debris of that epoch; or
- (C) Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action; or
- (D) Any area which shows evidence of, or is at risk from snow avalanches; or
- (E) Any area located on an alluvial fan, presently subject to or potentially subject to inundation by debris flows or deposition of stream-transported sediments; or
- (F) Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.
- (vi) Seismic hazard areas shall include areas subject to severe risk of earthquake damage as a result of seismic induced settlement or soil liquefaction. These conditions occur in areas underlain by cohesion-less soils of low density usually in association with a shallow groundwater table.
- (vii) Volcanic hazard areas shall include areas subject to inundation by mudflows, lahars, or related flooding resulting

from volcanic activity. The hazard area shall be delineated based on recurrence of an event equal in magnitude to the prehistoric Electron mudflow.

(5) Fish and Wildlife Habitat Conservation Areas. Fish and wildlife habitat conservation means land management for maintaining species in a wild state in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state.

- (a) Fish and wildlife habitat conservation areas include:
 - (i) Priority habitats and species;
 - (ii) Shellfish tidelands;
 - (iii) Kelp and eelgrass beds;
 - (iv) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
 - (v) Waters of the State;
 - (vi) Lakes, ponds, streams and rivers planted with game fish by a governmental or Tribal entity; or
 - (vii) State Natural Area Preserves and Natural Resource Conservation Areas.

(b) Counties and cities may consider the following when classifying and designating these areas:

- (i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces;
- (ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);
- (iii) Protecting riparian ecosystems;
- (iv) Evaluating land uses surrounding ponds and fish and wildlife habitat areas that may negatively impact these areas;
- (v) Establishing buffer zones around these areas to separate incompatible uses from the habitat areas; and
- (vi) Restoration of lost salmonid habitat.

(c) Sources and Methods

(i) Priority habitats and species. Counties and cities may use information prepared by the Washington department of wildlife to classify and designate priority habitats and priority species. Priority habitats and priority species are being identified by the department of wildlife for all lands in Washington state. The schedule for defining, identifying, mapping and preparing management guidelines for priority habitats and species is:

- (A) Commercial forest lands by September 30, 1990;
- (B) Urban growth areas by September, 1991; and
- (C) Other lands by December, 1992.

(ii) Shellfish Tidelands. Counties and cities shall use the process specified in Chapter 90.72 RCW, Shellfish Protection Districts, to classify shellfish beds. Designations shall be

based on contaminated or threatened commercial shellfish beds or correctable or threatened recreation beaches using data from the department of ecology, department of health, and local health departments.

(iii) Kelp and Eelgrass Beds. Counties and cities will classify kelp and eelgrass beds, identified by department of natural resources aquatic lands program and the department of ecology. These identifications are mapped in the Coastal Zone Atlas.

(iv) Naturally Occurring Ponds Under 20 Acres and Their Submerged Aquatic Beds that Provide Fish or Wildlife Habitat.

Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farmponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.

(v) Waters of the State. Waters of the State are defined in WAC 222, the Forest Practices Rules and Regulations. Counties and cities must use the classification system established in WAC 222.16.030 to classify waters of the state.

Counties and cities may consider the following factors when classifying waters of the state as fish and wildlife habitats:

(A) Species present which are endangered, threatened, or sensitive, and other species of concern;

(B) Species present which are sensitive to habitat manipulation;

(C) Historic presence of priority species;

(D) Existing surrounding land uses are incompatible with salmonid habitat; and

(E) Presence and size of riparian ecosystems.

(vi) Lakes, Ponds, Streams, and Rivers Planted with Game Fish.

This includes game fish planted in these water bodies under the auspices of a federal, state, local, or Tribal program or which supports priority fish species as identified by the department of wildlife.

(vii) State Natural Area Preserves. Natural area preserves are defined, established and managed by department of natural resources under the State Natural Heritage Program. The annual plan of the Natural Heritage Program sets goals, implementation objectives, and includes a plan for future acquisition of sites.