

**O'Donnell, Mary Beth**

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CP 16#0584

**From:** Cook, Christine  
**Sent:** Tuesday, February 17, 2015 4:38 PM  
**To:** Silliman, Peter; Orjiako, Oliver; Euler, Gordon; Alvarez, Jose; O'Donnell, Mary Beth  
**Subject:** Agricultural Designation.docx  
**Attachments:** Agricultural Designation.docx

Hi Peter,

This is some note-taking in one of my efforts to synthesize designation criteria. You should also review the relevant statutes in Chapter 36.70A RCW, including those that address rural planning more broadly.

These include, at least, the following:

- RCW 36.70A.030(2), (10), (11), (12), (15), (16), (18), (19)
- RCW 36.70A.035
- RCW 36.70A.070(1), (5)
- RCW 36.70A.100
- RCW 36.70A.140
- RCW 36.70A.170
- RCW 36.70A.177
- RCW 36.70A.703

If you have questions, please let me know.

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## **Memo to C. Cook Research File:**

### **The WAC on Agricultural Resource Lands Designation 02/17/15**

**WAC 365-190-030(1)** – "Agricultural land" is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees ..., or livestock, and that has LTCS for agricultural production. ... land for L-T commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land. LTCS means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the 20-year planning period, if adequately conserved.

**WAC 365-190-040(4) Classification** is the first step in implementing RCW 36.70A.170 and requires defining categories to which natural resource lands and critical areas will be assigned.

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**(5) Designation** is the second step in implementing RCW 36.70A.170.

(a) Pursuant to RCW 36.70A.170, natural resource lands and critical areas must be designated based on their defined classifications. For planning purposes, designation establishes:

(i) The classification scheme;

(ii) The distribution, location, and extent of the uses of land, where appropriate, for agriculture, forestry, and mineral extraction; and

(iii) The general distribution, location, and extent of critical areas.

(b) Inventories and maps should indicate designations of natural resource lands. In circumstances where critical areas cannot be readily identified, these areas should be designated by performance standards or definitions, so they can be specifically identified during the processing of a permit or development authorization.

(c) Designation means, at a minimum, 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.

(d) Successful achievement of the natural resource industries goal set forth in RCW 36.70A.020 requires the conservation of land base sufficient in size and quality to maintain and enhance those industries, and the development and use of land use techniques that discourage uses incompatible to the management of designated lands.

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(6) Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his or her land under current law. The law requires that natural resource land

uses be protected from land uses on adjacent lands that would restrict resource production. Development regulations adopted to protect critical areas may limit some land development options.

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**(8) (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 **36.70A.170**. At a minimum the following steps should be included in the adoption process:

- (i) Accept the requirements of chapter 36.70A RCW;
- (ii) Consider minimum guidelines developed by the department under RCW 36.70A.050;
- (iii) Consider other definitions used by state and federal regulatory agencies;
- (iv) Consider definitions used by similarly situated counties and cities;
- (v) Determine recommended definitions and check conformance with minimum definitions in chapter 36.70A RCW;
- (vi) Adopt definitions, classifications, and standards;
- (vii) Apply definitions by mapping designated natural resource lands; and
- (viii) Establish procedures for amending natural resource lands and critical areas designations.

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(9) Evaluation. When counties and cities adopt a comprehensive plan, the act requires them to evaluate their designations and development regulations to assure that 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 must include public participation.

**(10) Designation amendment process.**

(a) Land use planning is a dynamic process. Designation procedures should provide a rational and predictable basis for accommodating change.

**(b) Reviewing natural resource lands designation. In classifying and designating natural resource lands, counties must approach the effort as a county-wide or regional process.** Counties and cities should not review natural resource lands designations solely on a parcel-by-parcel process. Designation amendments should be based on consistency with one or more of the following criteria:

- (i) **A change in circumstances pertaining to the comprehensive plan or public policy related to designation criteria** in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
- (ii) **A change in circumstances to the subject property, which is beyond the control of the landowner and is related to designation criteria** in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3);
- (iii) **An error in designation or failure to designate;**
- (iv) **New information on natural resource land or critical area status related to the designation criteria** in WAC 365-190-050(3), 365-190-060(2), and 365-190-070(3); or
- (v) **A change in population growth rates, or consumption rates, especially of mineral resources.**

**WAC 365-190-050(2) Once lands are designated, counties and cities planning under the act must adopt development regulations that assure the conservation of agricultural resource lands. Recommendations for those regulations are found in WAC 365-196-815.**

**(3) Lands should be considered for designation as agricultural resource lands based on three factors:**

**(a) The land is not already characterized by urban growth.** To evaluate this factor, counties and cities should use the criteria contained in WAC 365-196-310.

**(b) The land is used or capable of being used for agricultural production.** This factor evaluates whether lands are well suited to agricultural use based primarily on their physical and geographic characteristics. Some agricultural operations are less dependent on soil quality than others, including some livestock production operations.

**(i) Lands that are currently used for agricultural production and lands that are capable of such use must be evaluated for designation. The intent of a landowner to use land for agriculture or to cease such use is not the controlling factor in determining if land is used or capable of being used for agricultural production.**

**(ii) In determining whether lands are used or capable of being used for agricultural production, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Natural Resources Conservation Service as defined in relevant Field Office Technical Guides. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys, and are based on the growing capacity, productivity and soil composition of the land.**

**(c) The land has long-term commercial significance for agriculture. In determining this factor, counties and cities should consider the following nonexclusive criteria, as applicable:**

- (i) The classification of prime and unique farmland soils as mapped by the Natural Resources Conservation Service;**
- (ii) The availability of public facilities, including roads used in transporting agricultural products;**
- (iii) Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights;**
- (iv) The availability of public services;**
- (v) Relationship or proximity to urban growth areas;**
- (vi) Predominant parcel size;**
- (vii) Land use settlement patterns and their compatibility with agricultural practices;**
- (viii) Intensity of nearby land uses;**
- (ix) History of land development permits issued nearby;**
- (x) Land values under alternative uses; and**
- (xi) Proximity to markets.**

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**(5) When applying the criteria in subsection (3)(c) of this section, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic**

**viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.**