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Planning and Development Services
Policy

Subject/Title: Farm Plan Monitoring and Compliance
Number: PL1-85-003Z
Effective Date: 05/06/2010
Submitted By: Peter Gill, Senior Planner
Reviewed By: Natural Resources/Long Range Planning
Approved By: David Stalheim, Director 

Statement:

- 1) Whatcom County will not use Farm Plans (Standard and Custom) as an admission by the landowner that he or she has violated the Critical Area Ordinance (CAO). Disclosure of current farm practices or structures on Farm Plan documents will not be used to bring enforcement action against a farm operator.
- 2) Observations made through monitoring inspections or through Farm Plan approval will not be used for enforcement of regulations other than the CAO, ie zoning and building codes.
- 3) The farm practices will be deemed to be in compliance with the CAO, Conservation Program on Agricultural Lands so long as the landowner is implementing the practices in the approved Farm Plan according to the timeline in the plan. This will be verified through Farm Plan implementation monitoring.
- 4) Periodic monitoring beginning within one year after plan approval and every two years after may be scheduled. Monitoring may be done through site visits, or through a self-certification submitted to Whatcom County Planning and Development Services (PDS). A self-certification is allowed if a farm plan is prepared by the Whatcom Conservation District, or qualified planning advisor, and approved by PDS. If a sufficient self-certification monitoring report (must include photos and implemented BMPs) is not submitted within 30 days of request, Whatcom County staff may make a site visit.

- 5) Site visits will be coordinated with the landowner. At the landowner's discretion, she may be accompanied by a qualified planning advisor, or a Whatcom Conservation District planner. PDS will give the landowner reasonable notice as to the purpose and need for entry, and receive confirmation in advance of a desired monitoring review and afford at least two weeks in selecting a date and time for the site visit consistent with 16.16.290 (C)(4)(e).
- 6) Fully implemented farm plans are valid unless there are substantial changes to the agricultural activities or a change in the location of surface waters.
- 7) "Substantial changes" that render a farm conservation plan ineffective are those that:
 - a. Degrade baseline critical area conditions for riparian and wetland areas that existed when the plan was approved, or
 - b. Result either in a direct discharge or substantial potential discharge of pollution to surface or ground water.

Rationale:

Uncertainty by farm operator over the use of information or observations in the creation of Farm Plans is a barrier to completing the plans. The language in this Administrative Procedure acknowledges that the incidental information obtained through farm planning will not be use to prosecute a violation not related to the CAO.

Item 4) clarifies how often Farm Plans should be monitored, when a self-evaluation of farm plan best management practices can be done, rather than a site visit by Whatcom County PDS, and how a site visit can occur.

Code related to CPAL monitoring, WCC 16.16.290(C)(2):

The Technical Administrator and/or the farm operator shall monitor plan implementation and compliance. The monitoring may include periodic site inspections, self-assessment by the farm operator, or other appropriate actions. Prior to carrying out a site inspection, the Technical Administrator shall provide reasonable notice to the owner or manager of the property as to the purpose or need for the entry.

Section 16.16.290 (C)(4) of the Critical Area Ordinance indicates that when *substantial changes* in agricultural activities of the farm or livestock operation have occurred the farm plan may become ineffective. A more specific explanation of "substantial changes" is needed to assess whether a new farm plan is needed.