

**ADDENDUM NO. 2  
TO THE  
FINAL ENVIRONMENTAL IMPACT STATEMENT  
SNOHOMISH COUNTY  
CRITICAL AREA REGULATIONS**

**Periodic Review and Update of the Critical Area Regulations  
Amending Title 30 of the Snohomish County Code (SCC)  
Chapters 30.62A, 30.62B and 30.62C SCC**

**Prepared Consistent with**

The Washington State Environmental Policy Act of 1971  
Chapter 43.21C Revised Code of Washington  
Chapter 197-11, Washington Administrative Code  
Snohomish County Code Title 30



**Snohomish County Planning and Development Services**

**Date of Issuance: July 2, 2015**

## FACT SHEET

<b>Project Title:</b>	Critical Area Regulations Review and Update
<b>Proposed Non-Project Action:</b>	The proposed non-project action is the adoption by the Snohomish County Council of amendments to Title 30 of Snohomish County Code (SCC) critical area regulations (CAR) by amending Chapters 30.62A SCC, 30.62B SCC, 30.62C SCC, and rescinding Chapter 30.64 SCC.
<b>Purpose of the EIS Addendum:</b>	<p>This addendum adds information relating to the non-project programmatic county action described above. This information does not result in any new significant adverse environmental impacts and does not change the analysis or the conclusions of previously identified significant impacts of the alternatives to the county's critical area regulations, adopted through Ordinance No. 06-061, within the previously issued SEPA documents: Draft Environmental Impact Statement issued April 2006, Final Environmental Impact Statement issued July 2007, and Addendum No. 1 to the Final Environmental Impact Statement issued July 2007.</p> <p>This addendum is being issued in accordance with WAC 197-11-625 and WAC 197-11-630. The adopted environmental documents listed herein, together with this addendum, meet Snohomish County's environmental review requirements for the proposed amendments.</p>
<b>Description of Proposal:</b>	The proposal provides amendments that comply with GMA mandates to designate and protect critical areas; incorporate recent best available science (BAS) and new information available since the last update of the development of regulations to protect the functions and values of critical areas; give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; consider and incorporate any recent Court or Board decisions; correct code conflicts or internal inconsistencies; and consider amendments proposed by stakeholders.
<b>Location of Proposal:</b>	Unincorporated Snohomish County.
<b>Action Sponsor Lead Agency:</b>	Snohomish County Department of Planning and Development Services 3000 Rockefeller Avenue, M/S #604 Everett, Washington 98201-4066

**Required Approval  
Review:**

Snohomish County Council – adoption of ordinance  
Washington State Department of Commerce – coordination of state  
comments

**Circulation and  
Comment:**

This addendum, or notice of availability, is being sent to all recipients of the previously issued Draft and Final EIS for the Critical Area Regulations as required by WAC 197-11-625. No comment period is required for this addendum under WAC 197-11-502(8)(c).

**The EIS Addendum  
is available by  
contacting:**

Troy Holbrook, Project Manager  
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Proposed Addendum No. 2 is also available for viewing at the Snohomish County Department of Planning and Development Services (County Administration Building West, 2nd Floor) and on the county's website. Visit [www.snoco.org](http://www.snoco.org) and go to the Planning and Development Services web page in the search box and select Critical Area Regulations Update. .

**Date of Issuance:**

July 2, 2015

**Responsible  
Official:**

Clay White, Director  
Snohomish County Planning and Development Services  
3000 Rockefeller Avenue, M/S #604  
Everett, Washington 98201-4066

Signature



Clay White, Director

## **Background**

Snohomish County is mandated by the Growth Management Act of Washington (GMA) to review and update its comprehensive plan and development regulations according to a schedule established in RCW 36.70A.130(5). This review and update includes the critical area regulations per RCW 36.70A.130(1)(c). Under the GMA, the periodic review or “update” means to review and make needed amendments to the comprehensive plan and development regulations to ensure internal consistency and compliance with the GMA. Further, review of critical area regulations under RCW 36.70A.172(1) requires the inclusion of best available science (BAS) and consideration given to anadromous fisheries.

Snohomish County critical areas regulations are contained in chapters;

30.62A SCC - Wetlands and Fish & Wildlife Habitat Conservation Areas;

30.62B SCC - Geologic Hazard Areas;

30.62C SCC - Critical Aquifer Recharge Areas;

30.64 SCC - Groundwater Protection; and

30.65 SCC - Special Flood Hazard Areas.

The scope of this project includes review of all requirements and provide amendments to the Snohomish County Code that will:

- Comply with GMA mandates to designate and protect critical areas
- Incorporate recent BAS and new information available since the last update in the development of regulations to protect the functions and values of critical areas
- Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries
- Consider and incorporate any recent Court or Growth Management Hearings Board (Board) decisions
- Correct code conflicts or internal inconsistencies
- Consider amendments proposed by stakeholders

The last major review and update concluded on August 1, 2007, with the adoption of Ordinance No. 06-061. CAR was recently extended to apply to agricultural lands in 2013. Planning and Development Services (PDS) has compiled and reviewed BAS that has been developed since the last major update adopted in 2007. Given the relatively recent adoption of the CAR and the absence of significantly new information, PDS has determined that major changes to CAR are not necessary in order to comply with the GMA or to implement existing policies. This review and update focuses primarily on chapters 30.62A SCC, 30.62B SCC, and 30.62C SCC. The department is proposing to rescind Chapter 30.64 SCC and no changes are proposed to Chapter 30.65 SCC.

The adoption of amendments to Title 30 SCC are a non-project action under the Washington State Environmental Policy Act (SEPA). This Addendum is not intended to satisfy individual project action SEPA requirements (the review needed for a future site-specific land use or building permit application). This Addendum does not significantly change the analysis of

impacts and alternatives contained in the Environmental Impact Statement (EIS) prepared in 2007 for the critical area regulations, nor does it identify new or significantly different impacts.

### **Prior Environmental Review**

The county published the Final EIS for the county's critical area regulations adopted through Ordinance No. 06-061, in 2007, in accordance with the review cycle required by the Growth Management Act (GMA). The Draft EIS was issued on April 7, 2006, the Final EIS was issued on July 23, 2007, and Addendum No. 1 to the Final EIS was issued July 23, 2007. The elements of the environment addressed in these EIS documents included elements of Fish and Wildlife habitat conservation areas, geological hazard areas, critical aquifer recharge areas, land use and socioeconomic issues.

### **EIS Addendum**

The proposed code amendments will not change any existing land uses or their impacts and should result in better avoidance or mitigation of impacts. The proposed code amendments will, if enacted, provide for greater protection of critical areas.

According to the SEPA Rules, an Addendum to an EIS provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(3)(b)(ii)). An Addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives identified in the prior environmental documents (WAC 197-11-600(4)(e), WAC 197-11-706).

This Addendum is being issued pursuant to WAC 197-11-625 to meet the county's SEPA responsibility. The Critical Area Regulations EIS evaluated plan alternatives, impacts, and mitigation measures that encompass the same general policy direction, land use patterns, socioeconomic, and environmental impacts that are expected to be associated with the proposed amendments identified in this Addendum.

### **Proposed Action**

No additional significant impacts beyond those identified in the county's EIS for the critical area regulations adopted in 2007 are expected to occur. No additional programmatic level environmental review will be required to the extent that the existing environmental documents listed in this addendum or other published documents have analyzed such changes.

### Chapter 30.62A SCC - Wetlands and Fish & Wildlife Habitat Conservation

#### Submittal requirements – 30.62A.130(1)(f)

Reduce the distance required from a proposed project site to identify critical areas to the maximum buffer that could overlap onto a project site. The existing code requires applicants to identify critical areas out beyond the maximum buffers that could overlap onto a project site. The intent of the proposed amendment is to require buffers to be shown that can overlap onto the site and therefore be impacted by development. Showing buffers beyond that distance provides little or no benefit to the protection of the offsite critical areas. All critical areas and their buffers

that overlap on the project site must be shown and is still a requirement in CAR, the level of protection is left unchanged from what was previously analyzed.

#### Permanent identification and recording – 30.62A.160(3)

Currently, subdivisions occurring on rural designated lands are required to put all critical areas and buffers in separate tracts. The recommended change allows critical areas and buffers occurring on rural subdivisions to be protected in easements on the lots rather than in separate tracts which can be counted in the lot yield. Currently only subdivisions in urban areas are allowed to include critical areas and buffer as easements on building lots. A fencing requirement along easements is also proposed in SCC 30.62A.160(5) to minimize potential impacts and the density in rural areas will not be increased will not increase beyond what is currently allowed. The proposed amendment provides for protection of the environment and the preservation of rural capacity.

#### Previously approved Critical Areas Site Plans – 30.62A.160(4)

This section allows for new development proposals that already have recorded Critical Areas Site Plans (CASP) to redevelop to higher intensities without changes in the protection recorded on the CASP. This amendment does not change the level of protection already established in CAR.

#### Wetland classification - 30.62A.230(2)

A revised wetland classification system was developed by the Department of Ecology in 2014. The rating system ranks wetlands based on their sensitivity to disturbance, rarity, values, and functions. The purpose of the update by Ecology was to incorporate new BAS. The established buffer widths correspond with the correct wetland type and are not proposed to be wider than what the current regulations require and do not change the level of protection that was analyzed under previous environmental documents. Therefore, the potential impacts will not exceed the level of impacts assessed in the DEIS.

#### Replacement ratios for temporary impacts to buffers and wetlands – 30.62A.320(3)(b) & 30.62A.340(4)(b)

Currently, impacts occurring in critical areas or buffers must replace the area of impact at replacement ratios ranging between 1 to 1 and 12 to 1, depending on the type of vegetation or wetland. It does not take into account minor impacts that can be easily or quickly mitigated. The change reduces the required impact replacement ratio to 1 to 1 for minor impacts that can be restored to pre-disturbance conditions within one year. The proposal is consistent with the previous analysis as it imposes its own limits by requiring compliance with other regulations, limiting disturbance to no more than needed, and the site shall be restored to pre-disturbance condition in one growing season. This limits disturbance to mostly grassy or shrub areas, since mature vegetation and trees cannot be restored within one growing season.

#### Minor development activities exceptions – 30.62A.510

This change adds site investigative work necessary for land use application submittals, to be included to the list of activities with a low potential for significant impacts. This change would

result in site investigative work being treated with greater flexibility with respect to impact mitigation. Any site disturbance still needs to be mitigated for and does not change the level of protection already established in CAR.

#### Single family residential development exceptions – 30.62A.520

This section allows for a 4,000 square foot encroachment into buffers on lots constrained by critical areas and buffers where there are no reasonable alternatives outside of the buffers. Several changes to this section are proposed, including; allowing increased flexibility for necessary utilities and roads to go through buffers, and limitations on the maximum allowed area of any additions to existing structures located in a buffer - 2,000 sq.ft. or ½ of the existing structure, whichever is less. This proposal does not allow increased encroachment into the buffers but only clarifies and reinforces existing regulations adopted in 2007. This proposal falls in the range of what has been analyzed in previous environmental documents and does not pose less environmental protection.

#### Farm Conservation Plans and best management practices – 30.62A.640

The recommended new section, 30.62A.640, has provisions to help ensure implementation and monitoring of farm conservation plans. The proposed amendment adds assurance that adopted mitigation measures will be implemented and are achieving the expected environmental protection analyzed under the 2007 EIS.

#### Chapter 30.62B SCC - Geologically Hazardous Areas

##### Geotechnical Report Requirements - 30.62B.140

The recommendation includes additional requirements for what must be included in a geotechnical report. This includes assessment and analysis of risks associated with geologic hazards, estimating landslide material run out, and other analysis. This proposal provides specific site by site geotechnical investigation and reporting. A site by site geotechnical report provided the best best available science, resulting in greater environmental and hazard protection that is within the parameters of the 2007 environmental documents.

##### Landslide Hazard Area Definition – 30.91L.040

The criteria that defines a landslide hazardous area in SCC 30.91L.040 are proposed to be expanded to include lands within a distance from the top of the slope equal to the height of a slope and within a distance from the toe of the slope equal to two times the height of the slope. These changes will provide additional protection to the public health and safety and will not result in greater impacts than what has been analyzed in previous environmental documents.

The proposed amendments to SCC 30.62B.340 provide consistency with the new definition of landslide hazardous area. The change would not allow development in the landslide hazard area and provides a methodology to construct in the landslide hazardous area if there is no other alternative. The proposal also provides criteria for expansion of the landslide hazard area in order to protect public health and safety as determined through best available science provided by site conditions through an enhanced geotechnical report.

The proposal also adds a section that provides the authority and methodology for the department to provide for more stringent construction standards and to impose additional mitigation in order to reduce specific environmental, health, and safety impacts.

The proposed landslide hazard area incorporates the landslide hazard setback requirements from the existing CAR into the new definition of a landslide hazard area. The 2007 environmental documents prepared for CAR discusses establishing clear setback criteria and to limit modification of a landslide hazard area. This proposal falls within the scope of the 2007 environmental analysis, as it strictly limits alterations in the new expanded landslide hazard area and includes the old setbacks into the expanded area.

#### Landslide Hazard Notification Requirements – New section SCC 30.62B.160(4).

This recommendation includes additional notice, disclosure, and covenant requirements for development activities or actions requiring a project permit or approval in a landslide hazard area. This does not include approvals for fences, retaining walls, deflection walls, or landslide mitigation. The notice would require a covenant that runs with the land and states that the property is in a landslide hazardous area, describes the risks, the owner accepts the responsibility for the risks, inform future purchasers, and provide indemnification. The previous environmental documents did not specifically discuss notification requirements for landslide hazard areas but does discuss disclosure requirements for other geological hazard areas and the need to acknowledge acceptance of the risk by the applicant.

Overall, the proposed revisions to the landslide hazard areas provide for more rigorous geotechnical requirements, more complete and explicit information regarding the nature and location of the hazard and incorporates the previous setback areas into the definition, increasing the level of protection discussed in the 2007 environmental documents.

#### Chapter 30.62C SCC - Critical Aquifer Recharge Areas

The requirements for a hydrologic report are listed under 30.62C.140. The changes include a requirement under 30.62C.140(3)(f)(iii) for an analysis or discussion of the effects on recharge potential on the site, including the permeability and transmissivity of the site geology and soils.

The proposal would add a section in the Hydrogeologic Report for projects where groundwater withdrawal is proposed to address groundwater quantity. Applicants would need to provide a letter from an approved water purveyor showing connection to the water supply, or indicate the source of the water supply within the report.

The proposal would add the contaminate nitrite to 30.62C.140, new subsection (o) which already obligates the evaluation of nitrate pollution. The US EPA considers both nitrate and nitrite pollution as potential contaminate sources which can lead to the infant/toddler condition of methemoglobinemia, or blue baby syndrome.



The proposed amendments provide for more stringent reporting and monitoring requirement and will not cause any additional impacts.

#### Chapter 30.64 SCC - Groundwater Protection

When the county adopted Amended Ordinance No. 06-061, chapter 30.62C was adopted and intended to replace chapter 30.64. Pursuant to Chapter 353, Laws of 2007, the county had to retain existing chapter 30.64 and apply it only to agricultural activities on land designated as rural land or agricultural resource land. This requirement expired in July 2013.

When the critical area regulations adopted by Amended Ordinance No. 06-061 were applied to agricultural activities in 2013, chapter 30.62C SCC was applied to agricultural activities and chapter 30.64 should have been repealed. This proposal will repeal the outdated critical area regulations codified in chapter 30.64 SCC and delete all cross references to chapter 30.64 SCC. Therefore, this deletion does not cause any additional impacts.

#### Consistency and Housekeeping Amendments

Housekeeping amendments ensure consistency with the proposed amendments to CAR are scattered in various other chapters of Title 30 SCC. The majority of the amendments are references to the wetland typing methodology and addressing code citations for consistency. These amendments improve implementation and consistency and do not pose any additional impacts.