Critical Areas Ordinance Guidance Update Survey of Local Governments Results (7/27/16)

Q1: When did you last update your critical areas regulations?

- 2015 (9 responses)
- In process (5 responses)
- 2008 (5 responses)
- 2014 (4 responses)
- 2016 (3 responses)
- 2012 (2 responses)
- One response each for 2011, 2009, 2006, 2005 and 2003

Q2: What topics did you address in your update? Check all that apply.

- Wetlands (28 responses)
- Fish and wildlife habitat conservation areas (22 responses)
- Geologically Hazardous areas (22 responses)
- Frequently flooded areas (17 responses)
- Critical aquifer recharge areas (14 responses)
- Mine hazard
- Alternative mitigation strategies
- Review for internal consistency
- Everything – total rewrite
- Shorelines
- Garry oak trees
- Open Space requirements

Q3: What was the reason for the updates to your critical areas regulations that you adopted (new available science, new ESA listing, FEMA Biological Opinion, need to increase effectiveness, etc.)?

- Compliance with GMA update requirement (13 responses)
- New available science (10 responses) e.g. updated FEMA maps
- Updated wetlands information (7 responses)
- Adopted a Unified Development Code
- Need to increase effectiveness
- Mandated by ECY to develop a CAO
- Need to address development in urbanized area
- The previous version was totally out of date.
- When you can grade on steep slopes
- Bi-Op, new DOE references, BMP's
- Administrative changes for clarity
- Revised regulations in conjunction with our Shoreline Master Program update.
- Clarify language, omit procedural redundancies
- MHB Decision (County failed to update FWHCA during 2005 periodic update)

Q4: Which Department of Commerce guidance document(s) did you use as a resource for your update? Check all that apply.

- Local Critical Areas Examples (15 responses)
- GMA Update - State Agency Resources for Local Governments Updating CAO's (14 responses)
- Citations of Recommended Sources of Best Available Science (13 responses)
- Critical Areas Assistance Handbook (CAA) - main text (12 responses)
- CAA Handbook, Appendix B: (8 responses)
- CAA Handbook, Appendix E: Priority Habitats (7 responses)
- CAA Handbook, Appendix A: Sample Code Provisions (6 responses)
- CAA Handbook, Appendix D: Threatened, Endangered, and Candidate Species (6 responses)
- CAA Handbook, Appendix J: DNR Natural Heritage Program and Rare Plant Lists (5 responses)
- CAA Handbook Appendix I: Geological Hazards Assessment Review Checklist (4 responses)
- Critical Areas Update Checklist (4 responses)
- CAA Handbook, Appendix C – Findings of Fact (1 response)
- CAA Handbook Appendix F: Critical Areas Identification Form Outline (1 response)
- CAA Handbook Appendix G: Non-regulatory Protection Program (1 response)
- CAA Handbook Appendix H: Nearshore Roadmap (1 response)
- Clearing and Grading Technical Guidance for Western Washington (1 response)

Q5: What other state agency documents did you use as a resource (e.g. WDFW or Ecology guidance)?

- Ecology (4 responses)
- Ecology - Small Cities Guidance, Ecology (3 responses)
- Ecology guidance on revised floodplain regulations (2 responses)
- WDFW land use planning for salmon (2 responses)
- Guidance on Buffers and Ratios
- WAC
- We neither have the time nor the staff expertise to understand the "guidance" documents, so we hired it out even though we can't afford it.
- Washington State Wetland and Rating System For Western Washington 2014 Update, DOE Publication no.14-06-029
- DNR & WDFW Mapping
- All agency guidance, especially PHS recommendations, Ecology wetland guidance
- Wetlands in Washington State - Volumes I and II
- Washington State Wetland Rating System for Western Washington--2014 Update, Wetlands & CAO Updates: Guidance for Small Cities, WDFW stream typing, Update on Wetland Buffers: The State of the Science (Oct. 2013), Selecting Wetland Mitigation Sites Using a Watershed Approach (Dec. 2009), Wetland Mitigation in Washington, Parts 1 and 2 (March 2006)
- Bunten small cities guidance (2012); Ecology Frequently Flooded Areas Guidance (2015), WDFW Land Use Planners Guidance

- DNR Natural Heritage Program and Rare Plants Lists

Q6: What did you find useful in the guidance you used?

- Ecology staff (2 responses)
- Model language
- The Small Cities guidance had a useful text.
- Other jurisdictions examples of code for similar code provisions.
- Understanding the details of floodplain regulation at the federal level
- The "guidance" documents I perused so thoroughly confused me when I called ecy to find out if I was on the right track I discovered I was so far of the track that I left the field entirely.
- Specific regulatory recommendations or scientific findings that can be easily translated into regulations
- It contained the new definitions and buffers for wetlands that are used for the new rating system.
- Specific documentation citations for Best Available Science
- Choices (or - alternatives) of sample language to incorporate
- Too long ago, however Ecology staff did help with providing current model code w/BAS for wetlands.
- Summaries/synthesis of BAS and recommendations for addressing the findings of that science, for example Ecology wetland guidance and recommendations for addressing PHS from WDFW.
- All of the DOE publications, the critical areas update checklist, and direct conversations with DOE staff helped us determine what was required in this periodic update, what is BAS, and then also the technical/science reasons behind the guidance. They were all very helpful. For guidance on geohazards, we engaged with local geologists.
- Please send the City of Sultan a hard copy of Appendix I: Geological Hazards Assessment Review Checklist as well as Appendix B, so we can add them to our review that is ongoing.
- Example provisions
- Primarily agency websites – County's consulting team also conducted an extensive evaluation of scientific literature and agency guidance which is identified in BAS report

Q7: What additional resources or advice regarding topics in the current guidance would be most useful the next time you review your critical areas regulations for an update?

- Our biggest issue is whether agriculture should be made to do studies and plans to show they won't contribute to the nitrate problem in the Abbotsford-Sumas aquifer. As you can imagine, the non-ag environmental folks are pushing for this, but the ag folks think it unnecessary. I've found no other county that treats ag as a polluting industry. And yet, there's obviously a problem.
- More information needs to be developed for implementing critical area in heavily developed urban areas. Standard buffers of 100 or more feet do not make sense in already developed areas. Opportunities need to be sought to improve critical areas in developed areas. For example, allowing development in the standard "buffer" in exchange for enhancement of the critical area or critical area buffer
- Understandable guidance documents.

- Guidance on what, specifically, must be designated as a species or habitat of local importance; also, guidance on the extent to which individual plant species or communities of plan species must be protected. Existing guidance is clear on the need to protect plants and plant communities when it can be shown they have a primary association with fish or wildlife species; however, guidance does not address whether or not plants, in the absence of a primary association with a species of fish or wildlife, must be protected under the GMA
- It would be most helpful if the information that is on the Department of Commerce web page and the Ecology web page were the same. I recently updated the Critical Areas Ordinance for a jurisdiction and it was extremely unhelpful that there were links that led to nowhere and information differed between the two.
- State Legislative Mandate - no option except to adopt what is adopted by state.
- New "Best Available Science"
- Updates on Best Available Science
- Fish and wildlife resources. Up to date threatened and endangered habitat and plant species. For example, Oregon White Oak is considered habitat for the threatened western gray squirrel, but we have discovered in what circumstances or locations While Oak should be protected. Also what are appropriate fish and wildlife buffers from different stream classifications.
- Land Slide and Erosion Hazard Areas. Steep slope mapping resources are lacking. The most current we have is a 1970s era soil survey of Pierce County. Lidar and ortho contour mapping provide source data but interpolating those into percent slope is beyond our means.
- Model ordinance with optional add-ins.
- Options for review processes and approvals.
- Administrative review threshold levels vs use of Hearing Examiner
- Exemption max. thresholds & exceptions.
- Existing development & addressing nonconforming buildings and uses.
- It would be helpful to clearly distinguish between those items mandated by RCW, pulled from the WAC and those recommended for use.
- Landslide hazard areas
- How to address critical areas in shoreline jurisdiction is still one of the more confusing aspects, especially for critical areas other than riparian habitat and wetlands. The SMP guidance from Ecology contains no recommendations for geologically hazardous areas, critical aquifer areas, so the statute that defers regulation of CAs in shoreline jurisdiction currently has no guidance from a state agency. We decided during our SMP update to adopt our CAO provisions by reference to apply within shoreline jurisdiction, but that still requires an SMP update every time we update our CAO. This creates a significant amount of extra process and confusion for the public. It also may be different approach than other jurisdictions are taking, creating confusion for property owners and builders/developers who work in multiple jurisdictions. If SMP guidance to address critical areas in shoreline jurisdiction were available, at least that would likely encourage a little more consistent approach to this issue among jurisdictions. Hopefully, such guidance could include the current rulemaking that Ecology is doing to provide for more expedited SMP amendments. Maybe it could even eventually encourage statutory change to better align SMP and CAO requirements
- Sample language on permitting requirements and review of permit applications.

- The BAS documents are the most helpful because they not only provide the required foundation for the CAO but they also inform us as to what is working and why as well as what is not working with regard to protection and mitigation.
- Guidance geared specifically at our setting (small city) helped us shape a CAO appropriate for our geography and our constituents.
- Having state staff available to help understand the requirements is very helpful.
- Ranges for stream buffers for urban environments
- For some critical areas (streams, fish habitat, and wetlands) excellent agency guidance is available that draws connections between scientific information and specific regulatory recommendations. For other critical areas (habitats and species of local importance, rare plants, geo hazards etc.) the available agency guidance is an excellent source of technical information but provides little useful information on establishing management policies or regulations. For example, WDFW's PHS guidance provides excellent information for protecting some species, but for others there simply isn't anything that can easily be used to establish workable regulations. Something that would be extremely useful is a guidance document that connects critical areas protection to fundamental land use decisions. It seems that for some critical areas, and species, nothing more can be gained through site specific regulations and a broader approach (allowed uses/minimum lot sizes) may be more effective. Ideally, critical area considerations should be integrated into a local government's overall land use planning scheme, and guidance on this topic is lacking.

Q8: What new topics should be addressed in the guidance that currently are not included, or could be more comprehensively addressed?

- Well, I'd say timing, as Commerce (and other agencies) are issuing guidance now, when we're almost through with this most recent update. We started our process 2 years ago. That's when we needed it.
- Opportunities for development/redevelopment in urban environments that can also enhance existing conditions of critical areas.
- How to fund an unfunded mandate.
- See comments above regarding species and habitats of local concern and plants. Also, the connection between land use planning and water resources should be better addressed. The role local governments should play in ensuring their land use plans do not envision, or permit, more growth than can be supported by existing water resources should be addressed. Recent court decisions have left this question unresolved. Commerce should provide additional guidance on specific regulatory provisions that address this issue, or clarify the requirements through rule making.
- The water resources question is one which must be comprehensively addressed because it touches on many areas of comprehensive planning and many elements of comprehensive plans, including: permitted land uses and densities; utilities and capital facilities; fish and wildlife habitat; wetlands; flood hazards; and rural character. It also involves the areas of overlapping jurisdiction and expertise and involves both local governments and the various state agencies (DOE, WDFW, DNR, and the State Department of Health). As such, there is a pressing need for synthesized guidance on this topic
- The guidance I used had all the information I needed to update the city's CAO.
- Identification of current resources of best available science and mapping.
- None - already very cumbersome and difficult to comply with the regulations.

- Influence of VSP - how CAO are integrated
- Light and noise pollution
- Monitoring of mitigation plans
- Geologically hazardous critical areas need quite a bit more guidance, both in how to identify them and recommendations for how to address in regulations. There are numerous types of GHCAs, and each has quite a bit of scientific information about it, but not gathered in one place nor synthesized into management recommendations.
- Recommendations particularly targeted to smaller urban communities
- The effects of climate change on critical areas Guidance tailored to the jurisdiction on specific wildlife species and/or habitat types Examples of locally significant wetlands
- New flood maps from FEMA at least in Snohomish County
- For some critical areas (streams, fish habitat, and wetlands) excellent agency guidance is available that draws connections between scientific information and specific regulatory recommendations. For other critical areas (habitats and species of local importance, rare plants, geo hazards etc.) the available agency guidance is an excellent source of technical information but provides little useful information on establishing management policies or regulations. For example, WDFW's PHS guidance provides excellent information for protecting some species, but for others there simply isn't anything that can easily be used to establish workable regulations.
- Something that would be extremely useful is a guidance document that connects critical areas protection to fundamental land use decisions. It seems that for some critical areas, and species, nothing more can be gained through site specific regulations and a broader approach (allowed uses/minimum lot sizes) may be more effective. Ideally, critical area considerations should be integrated into a local government's overall land use planning scheme, and guidance on this topic is lacking.
- The integration of land use planning and critical areas protection. To this point most critical areas guidance has focused on site specific impacts and regulations. This approach is problematic for two reasons; first, it fails to adequately protect critical areas, and second it increases the regulatory burden on individual land owners. At some point the overall development density of rural areas becomes a problem which cannot be overcome with buffers and protected areas.This is already becoming a problem in many areas where adequate water availability to support both human settlement and wildlife populations was not considered when rural land use plans were developed.
- Once lots are created property owners expect to be able use or develop a reasonable portion of their property. Smaller lots invariably result in conflicts between property owner expectations and the need to protect critical areas because the required buffers comprise a larger percentage of the lots when compared to larger lots. Clearly rural lot sizes are an important consideration in protecting critical areas but the available guidance and scientific information is lacking.

Q 9: **Do you monitor your critical areas regulations for efficiency and effectiveness?**

- Yes (12 responses)
- No (17 responses)

Q10: If you monitor for efficiency and effectiveness, what strategies or tools do you use?

- Local knowledge and review.
- Yes but... We monitor restoration/mitigation for 5 years, but we don't gather data on anything else. We've looked into it, but so far have only found that King and Snohomish Counties have

produced a monitoring report, and they received grants to do those and they were a one shot deal. It seems like the GMHB are pushing for widespread effectiveness monitoring, and I assume we'll all have to start such programs, so perhaps the state ought to figure out ways of doing and funding this.

- Currently re-evaluating language for NGPA, innovative design, mitigation ratios, density transfer
- Well, efficiency and effectiveness for me are not what they are to you. I want to understand the regulations I'm enforcing, that make them efficient; whether the citizens can understand them and follow them makes them effective. For you, however, it is a biological question of whether the wetlands thrive. I don't have the expertise to answer that.
- We examine the after effects of development under our current codes and implementation strategies and determine what worked and what did not. Codes and strategies are then tweaked to produce a better (intended) outcome in the future. This is an ongoing activity.
- Stormwater management program and personnel monitoring - annually.
- Water quality monitoring data
- Photos of before and after projects. Not very scientific. May require monitoring as condition of approval for project. City has had very little new development in critical areas & buffers.
- During permitting we track interpretation questions, frequently asked questions and permitting issues that arise that could be better addressed in the regulations.
- Anecdotal information from permit reviewers about what is/isn't working. Strict maintenance and monitoring of mitigation sites until performance standards are met. Proxy tools such as the health of our urban streams are another. Long term monitoring of a heron colony located within our jurisdiction. GIS tools.
- Wetland vegetation monitoring (however the program has not led to any conclusions about efficiency or effectiveness)

Q11: If you do not monitor your regulations, would you do so if there were easily accessible data sources and tools available to you?

- Yes (16 responses)
- No (3 responses)

Q12: What data resources would be helpful to you in monitoring the efficiency and effectiveness of your regulations?

- High resolution change detection of indicator land base (17 responses)
- LiDAR, Water quality monitoring data (17 responses)
- Tools for analyzing permit data (14 responses)
- All of them. For a small City with little to no resources we depend on others for help.
- I have LiDAR, I don't know what the others are. Provide them with training, and I'll use them.
- For local governments with computerized permit tracking databases parcel level land use change data can be easily be collected, but, in my experience seldom is. For parcels containing critical areas information should be collected specifying whether or not the authorized development is within a critical area buffer or not, and if so, the total quantity of clearing authorized the total quantity of building or impervious surface authorized, and the total quantity of mitigation plantings required. Parallel data would then need to be collected on changes in water quality/quantity, vegetation cover, and other natural factors. Environmental data and parcel

development data could be sorted by water-shed and analyzed to identify statistically significant changes in environmental conditions. The results of this could then be used to make adjustments to critical area regulations during the periodic update process. This would be similar to the way the buildable lands program is administered (monitor trends and make changes as necessary).

- A statewide clearinghouse for submittal and curation of wetlands reports and data sheets.
- Upgrade from basic ArcView GIS License to map data - permits & monitoring reports. Gage(s) at upstream waterway(s) entry at City boundary & exit(s) from city.
- We may or may not monitor based on staffing availability. The requirement for 'no net loss' on shorelines requires monitoring but expansion of monitoring may not be feasible. Further, we would be challenged to monitor without a State or Federal mandate.
- Updated floodplain mapping
- All of the above. However monitoring permit data is crucial none of the other measures provides useful, or scientifically defensible, information on the effectiveness of critical area protection measures without being able to connect observed changes in critical area functions and values to permitting actions. For example, being able to quantify changes in tree cover or vegetation type is not enough to draw conclusions about the effectiveness of clearing regulations without also knowing if the change is the result of a permitted land use action. There must be a connection to permit monitoring.

Q13: Are there any other resources or tools that would be helpful to assess your critical areas regulations for efficiency and effectiveness?

- More staff (3 responses), one specifying a biologist and asking for one to be provided without charge.
- Money and time
- Having access to information to assess the CAR for free.
- Permission to access private property?
- We would benefit from yearly aerial imagery to track changes.

Q14: Are you a small city that has used the Small Cities Critical Area Implementation Handbook? If the question is "No" please skip to Question 17.

- No (24 responses)
- Yes (3 responses)

Q15: What did you find useful in the Small Cities Critical Areas Implementation Handbook?

- Example regulatory text and handouts
- Sample language and background for wetlands
- I was not aware of said handbook. I suspect our consultant is utilizing these guidance tools.

Q16: What topics, additional resources or advice that are not currently included in the Small Cities Critical Areas Implementation Handbook would be most useful to implement your critical areas ordinance in your small city?

- More on wildlife and wildlife habitat

Jurisdictions responding that gave their names:

• Chelan County	• Dayton
• Garfield County	• Edmonds
• San Juan County	• Kenmore
• Whatcom County	• Lake Stevens
• Arlington	• Lakewood
• Bellingham	• Normandy Park
• Bonney Lake	• Olympia
• Brier	• Steilacoom
• Burlington	• Stevenson
• Covington	• Sultan