Natural Resources Building
1111 Washington St SE
Olympia WA 98501

PO Box 40917
Olympia WA 98504-0917

STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

(360) 902-3000
TTY: (360) 902-1996
Fax: (360) 902-3026

E-mail: Info@rco.wa.gov
Web site: www.rco.wa.gov

MEETING DATE: November 2009 **ITEM NUMBER:** 6

TITLE: Changes to WWRP Farmland Preservation Program

PREPARED BY: Dominga Soliz, Policy and Planning Specialist

APPROVED BY THE DIRECTOR:

Proposed Action: Decision

Summary

Recent statutory changes made additions to the definition of "farm and agricultural land" and made nonprofit organizations and the State Conservation Commission eligible to apply for Farmland Preservation Program grants in the Washington Wildlife and Recreation Program. In addition, the Farmland Preservation Advisory Committee and the Farmland Preservation Task Force both recommended that RCO revise the Farmland Preservation Program's evaluation criteria regarding project environmental values.

Recreation and Conservation Office (RCO) staff worked with stakeholders to develop and gather public comment on policy options. Staff is asking the Recreation and Conservation Funding Board (board) to approve the policies for the 2010 grant cycle.

Strategic plan link

Consideration of these policy changes supports the board's objectives to (1) evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs, and (2) fund the best projects as determined by the evaluation process.

Recommendation

RCO staff recommends that the board adopt the revised policies via resolution #2009-29. These policies would:

- Insert the revised statutory definition of "farm and agricultural land" into the policy manual.
- Make non-profit organizations and the State Conservation Commission eligible sponsors in the Farmland Preservation Program, and require non-profit applicants provide at least 50 percent matching resources.
- Require that non-profit applicants in the Farmland Preservation Program meet eligibility thresholds
- Add additional criteria to the Environmental Values section to focus on the environmental benefits farms can provide while promoting agricultural production.

Background

The primary purpose of the Farmland Preservation Program in the Washington Wildlife and Recreation Program (WWRP) is to acquire development rights on farmland in Washington and ensure the land remains available for agricultural practices. A secondary goal is to enhance or restore ecological functions on farmland.

The board has conducted three grant cycles for the program since it began in 2005. Over the last four years, the board has addressed Farmland Preservation Program policy issues that include:

- Establishing initial policies;
- Creating a model conservation easement;
- Determining whether to allow land trusts to be co-holders of the conservation easement;
- Selecting evaluation criteria that best fit program goals; and
- Increasing program participation.

Drivers of Current Policy Change

During the 2009 session, the legislature amended the definition of "farm and agricultural land"[1] to include specific standing crops such as short-rotation hardwoods and Christmas trees. The legislature also expanded the Farmland Preservation Program eligibility requirement[2] to allow nonprofit organizations and the State Conservation Commission to apply for Farmland Preservation Program grants.

The Farmland Preservation Advisory Committee and the Farmland Preservation Task Force, which provides policy recommendations to the State Conservation Commission's Office of Farmland Preservation, both recommended that RCO revise the Farmland Preservation Program's evaluation criteria regarding project environmental values.

Analysis

Staff worked with a group of stakeholders to develop the following policy proposals.

1. Insert the revised statutory definition of "Farm and agricultural land" (84.34.2020) into Appendix B of the Farmland Preservation Program policy manual.

2. Make non-profit organizations and the State Conservation Commission eligible sponsors in the Farmland Preservation Program, and require non-profit applicants provide at least 50 percent matching resources.

3. Require that non-profit applicants in the Farmland Preservation Program meet the following eligibility thresholds to demonstrate:
    - That the preservation of agricultural lands is a priority of the organization; and
    - An ability to manage, monitor, and enforce agricultural conservation easements.

[1] Session Law Chapter 513 Year 2009
[2] Session Law Chapter 341 Year 2009

4. Add additional criteria (without additional points) to the Environmental Values section to focus on the environmental benefits farms can provide while promoting agricultural production.

Stakeholders included the following:

Name	Organization
Josh Giuntoli	State Conservation Commission
Don Stuart	American Farmland Trust
Jacob Anderson	Farmland Preservation Program Advisory Committee, Farmland Preservation Task Force
David Brown	Farmland Preservation Program Advisory Committee, USDA Natural Resources Conservation Service
Jim Aldrich	Friends of the Field
Jeanne Williams	Department of Natural Resources, Farmland Preservation Program Advisory Committee
Dick Carkner	Farmer, Farmland Preservation Program Advisory Committee
Cindy Ray	Farmer, Farmland Preservation Program Advisory Committee
Fran Einterz	Farmland Preservation Program Advisory Committee
Chris Hilton	Whidbey Camano Land Trust
Mike Tobin	North Yakima Conservation District
Linda Lyshall	Puget Sound Partnership
Peter Dykstra	Trust for Public Land
Scott Nelson	Farmer, Farmland Preservation Program Advisory Committee
Mike Ryherd	Washington Wildlife and Recreation Coalition

Proposal #1: Update the Definition of "Farm and agricultural land"

The Washington Wildlife and Recreation Program uses the definition of "farm and agricultural land" set forth in RCW 84.34.020.

The new statutory language adds smaller farms (those between 5 and 20 acres) with standing crops in which a significant investment has been made for production, but due to a longer rotation, the farm has not met the existing gross income thresholds. Examples include some Christmas tree farms, vineyards, fruit trees, or other perennial crops, as well as short-rotation hardwoods. Stakeholders believe the potential of funding hobby farms is low since these farms will have to meet existing program evaluation criteria that include economic productivity and agricultural viability questions.

Staff Proposal

The definition is currently provided in Appendix B of the Farmland Preservation Program manual 10f. The definition should be updated as follows in RCO policy manuals in order to comply with legislative changes (underline indicates new language):

> …. Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:
>
> (i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;
>
> (ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or
>
> (iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year; …. ”
>
> RCW 84.34.020

Proposal #2: Update Program Eligibility to Include Non-profits and the State Conservation Commission

The Farmland Preservation Program policy manual 10(f) includes the program legislation. The program legislation, as amended, refers to the definition of nonprofit nature conservancy corporations or associations provided in RCW 84.34.250[3]. The appendix should be updated to comply with legislative changes. Similarly, eligibility policies in the manual should be updated to reflect the legislative changes.

Nonprofit land trusts are currently able to co-hold title to conservation easements acquired with Farmland Preservation Program funds. The State Conservation Commission has not yet held title to

[3] A “nonprofit nature conservancy corporation or association” is defined as: *“…an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c) (of the Internal Revenue Code) as it exists on June 25, 1976 and one which has as one of its principal purposes the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of open spaces, including but not limited to wildlife habitat to be utilized as public access areas, for the use and enjoyment of the general public.”* RCW 84.34.250

program easements. Local agencies in the program are required to provide 50 percent matching resources.

The effect on the program will be that nonprofit organizations and the State Conservation Commission will be able to apply directly for Farmland Preservation Program grants and nonprofit organizations will be required to provide at least 50 percent matching resources.

Staff Proposal

Staff proposes updating the eligible applicants section in manual 10(f) as follows:

Original Language	**New Language**
Only cities and counties may apply and applicants must provide at least 50 percent of the total project cost. Matching shares of more than 50 percent are encouraged. Applications that include a higher match than the minimum required will receive additional points in the evaluation	Cities, counties, nonprofit nature conservancy corporation or associations* and the State Conservation Commission may apply. Cities, counties, and nonprofit nature conservancy corporation or association applicants must provide at least 50 percent of the total project cost. Matching shares of more than 50 percent are encouraged. Applications that include a higher match than the minimum required will receive additional points in the evaluation. **A nonprofit nature conservancy corporation or association is defined in RCW 84.34.250

Proposal #3: Require Non-profits Meet Eligibility Thresholds Related to Farmland Preservation

Non-profit Farmland Preservation Program applicants should meet eligibility requirements that ensure they will be able to meet obligations related to preserving farmlands. Since the statutory definition of "nonprofit nature conservancy corporation or association" encompasses a wide variety of organizations, it is important to ensure nonprofit applicants have the capacity and expertise necessary to meet obligations specific to preserving farmlands without adding burdensome administrative processes.

Staff Proposal

Staff proposes adding the following policy language to *Manual 10(f), Section 2: Policies, "Eligible Applicants & Match Requirements*":

> Non-profit nature conservancy corporations or associations must demonstrate:
>
> a. The preservation of agricultural lands as a priority of the organization; and
> b. An ability to manage, monitor, and enforce agricultural conservation easements.

Proposal #4: Add Environmental Values Criteria

Since it began in 2006, the Farmland Preservation Program has sometimes been undersubscribed. It can be difficult for Farmland Preservation Program applicants to maximize points in the environmental values criteria section without diminishing agricultural production. Stakeholders report that applicants believe it is not economically beneficial for some farms to apply for Farmland Preservation Program funds because they would have to reduce agricultural productivity to meet environmental values criteria.

In order to meet the program's twin goals of maintaining opportunities for agricultural activities and enhancing or restoring ecological functions, environmental values criteria should consider how farms can provide environmental benefits while promoting agricultural productivity. This would encourage program participation.

Staff Proposal

The Environmental Values criteria provide 22 points out of a total of 133. Staff proposes changing the point allocation in the Environmental Values criteria for Farmland Preservation Program projects to reflect environmental benefits that can be achieved while promoting agricultural productivity. Points would be removed from some questions to give points to the following new question. Details are shown in Attachment A.

4. Consider how this project can provide local environmental benefits while promoting the agricultural productivity of the land. What specific practices will this project perform that will result in increased water quality while encouraging agricultural productivity? What specific practices will this project perform that will result in increased air quality while encouraging agricultural productivity? (*maximum 4 points*)

Public Review

On September 18, 2009, staff circulated a draft memo to about 600 people who had expressed an interest to RCO in hearing about issues related to the Farmland Preservation Program. The memo also was published in the Office of Farmland Preservation's September 2009 newsletter requesting comments. Attachment B includes the comments received, in summary format.

The RCO staff received six comments, which they responded to by answering questions and clarifying the proposal. Some nonprofit organizations stated that it was unclear why the proposal does not require the State Conservation Commission to provide 50 percent matching resources and why it does not require the State Conservation Commission to meet the same eligibility thresholds as nonprofits. Staff responded that, as a state agency, the State Conservation Commission is not required by statute to provide local agency matching resources or meet eligibility thresholds.

Staff referred a comment regarding general nonprofit eligibility policies to Jim Eychaner, Policy Specialist, who is conducting outreach on general eligibility thresholds nonprofits should meet in order to receive funds from WWRP. This proposal addresses nonprofit eligibility thresholds only to the extent of establishing baseline criteria for nonprofit applicants to the Farmland Preservation Program.

Some comments recommended changing the language of the environmental values criteria to include consideration of eradication of invasive species, the Puget Sound Partnership Action Agenda priorities, and other habitat and species protection. One comment recommended altering the points system in the environmental values criteria.

Based on public recommendations, staff changed the language in the public memo regarding proposal #3 to require nonprofit organizations demonstrate *"The preservation of agricultural lands as a priority of the organization."*

Next Steps

If the board approves the policy revisions, RCO staff will update the manuals and implement the policies for the 2010 grant cycle.

Additional Policy Revisions

Staff will continue to work with key constituents such as RCO's Farmland Preservation Program Advisory Committee members, county representatives, land trusts, the Puget Sound Partnership and the State Conservation Commission to review the Farmland Preservation Program policies and develop options for improvement. Specific topics for discussion include:

- whether to provide assurance that projects are continuing as working lands.
- whether to define "commercial feedlots;"
- whether to exclude community gardens;
- how to evaluate pasturelands
- how well the conservation easement is working
- how to align the Farmland Preservation Program with the Puget Sound Partnership's Action Agenda priorities

Attachments

Resolution #2009-29

A. Proposed Environmental Values Criteria
B. Public Comments on the Proposal

RESOLUTION #2009-29

Changes to WWRP Farmland Preservation Program

WHEREAS, the 2009 Legislature amended the definition of "farm and agricultural land" to include specific standing crops such as short-rotation hardwoods and Christmas trees; and

WHEREAS, the 2009 Legislature expanded the Washington Wildlife and Recreation Program Farmland Preservation Program eligibility requirement to allow nonprofit organizations and the State Conservation Commission to apply for Farmland Preservation Program grants; and

WHEREAS, it is in the best interests of the program that non-profit applicants applying for Farmland Preservation Program funds meet eligibility requirements that ensure they will be able to meet obligations related to preserving farmlands; and

WHEREAS, the Farmland Preservation Program environmental values criteria could better consider how farms can provide environmental benefits while promoting agricultural productivity; and

WHEREAS, Recreation and Conservation Office (RCO) staff developed and circulated a policy proposal for review and comment among people that have asked to be kept informed about the Farmland Preservation Program; and

WHEREAS, adopting these revisions would further the board's strategic goal to "[f]und the best projects as determined by the evaluation process";

NOW, THEREFORE BE IT RESOLVED, that the board does hereby adopt the following policies

- Use the revised statutory definition of "farm and agricultural land" in the Farmland Preservation Program policies;
- Make non-profit organizations and the State Conservation Commission eligible sponsors in the Farmland Preservation Program;
- Require that non-profit applicants provide at least 50 percent matching resources;
- Require that non-profit applicants in the Farmland Preservation Program meet eligibility thresholds by demonstrating (1) that the preservation of agricultural lands is a priority of the organization; and (2) an ability to manage, monitor, and enforce agricultural conservation easement;
- Add additional criteria, without additional points, to the Environmental Values section to focus on the environmental benefits farms can provide while promoting agricultural production; and

BE IT FURTHER RESOLVED, that the board directs RCO staff to implement this revision beginning with the 2010 WWRP grant cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

ATTACHMENT A: PROPOSED ENVIRONMENTAL VALUES CRITERIA

Staff proposes revising the environmental values section of the existing criteria as follows (underline indicates new language, strikeout indicates deleted language):

Environmental Values (for evaluating acquisition-only projects)

1. Is the type and quality of habitat found on this property specifically recommended for preservation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, the Washington State Natural Heritage Plan, or a coordinated region wide prioritization effort? Does the property contribute to recovery efforts for endangered, threatened, or sensitive species? What specific role does the habitat play in supporting this/these species? (*maximum ~~9 points~~ 7 points*)

2. Describe the ecological and biological quality of the habitat and its benefits to fish and wildlife. What species/communities benefit from habitat on this property? How is this habitat important in providing food, water, cover, connectivity, and resting areas? Are other protected lands near or adjoining this farm managed in a manner that is complementary or compatible for these species? Is the farm property part of the larger ownership? If so, describe management of the larger ownership. (*maximum ~~9 points~~ 7 points*)

3. Is there an existing or proposed environmental management/stewardship plan or conservation plan for the farm/ranch? Is the farm/ranch certified under some sort of sound environmental practices or sustainability program? Describe any stewardship activities undertaken by the landowner in the past and the results of those efforts. (*maximum 4 points*)

4. Consider how this project can provide local environmental benefits while promoting the agricultural productivity of the land. What specific practices will this project perform that will result in increased water quality while encouraging agricultural productivity? What specific practices will this project perform that will result in increased air quality while encouraging agricultural productivity? (*maximum 4 points*)

Environmental Values (for evaluating acquisition + restoration/enhancement projects)

1. Enhancement or restoration projects must further the ecological functions of the farmlands.

   a. Consider the current habitat values of the property. How is this habitat important in providing food, water, cover, connectivity, and resting areas? Has the landowner already undertaken successful stewardship activities on the farm/ranch? (*maximum 2 points*)

b. Consider the benefits to fish and wildlife species, especially endangered, threatened or sensitive species, including benefits to plant and animal communities and the habitat on which they depend (*maximum 3 points*)

c. Benefits to habitat forming processes, for example restoring the ability of a river or stream to transport gravel and fine sediment or restoring native riparian vegetation to provide for a future source of shade, detritus and woody debris (*maximum ~~4 points~~ 3 points*)

2. Consider the likelihood that the anticipated benefits will be realized. This would be based on the use of accepted methods, sound project design and siting, etc.

   a. The project is based on accepted methods of achieving beneficial enhancement or restoration results (*maximum ~~3 points~~ 2 points*)
   b. The project is likely to achieve the anticipated benefits. Consider siting, project type, management/stewardship plan, proposed monitoring and evaluation (*maximum ~~6 points~~ 4 points*)

3. Does the proposed restoration or enhancement address needs or priorities identified in a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, a listed species recovery plan, the Washington State Natural Heritage Plan, or a coordinated region wide prioritization effort? (*maximum 4 points*)

4. Consider how this project can provide local environmental benefits while promoting the agricultural productivity of the land. What specific practices will this project perform that will result in increased water quality while encouraging agricultural productivity? What specific practices will this project perform that will result in increased air quality while encouraging agricultural productivity? (*maximum 4 points*)

ATTACHMENT B: SUMMARIZED PUBLIC COMMENTS ON THE PROPOSED FARMLAND POLICIES

Commenter	Summarized Comments [4]	Staff Response (if applicable)
Great Peninsula Conservancy	The proposed statutory changes reflect the intent of the legislature. We support this proposal. …We are unclear as to why the State Conservation Commission apparently is not required to provide at least 50% of the total project cost. We have commented previously to Jim Eychaner on the proposed eligibility thresholds for non-profit applicants. We support the addition of the items requiring nonprofits to meet eligibility thresholds specific to farmland preservation….[and] the proposed changes which elevate the importance of agricultural production in the evaluation criteria without diminishing the importance of maintaining ecological values. We recommend adding a question under this new language that would help to rate a project's environmental values: <u>What specific practices will this project perform that will result in management, control, and eradication of invasive species while encouraging agricultural productivity?</u> ….	As a state agency, the State Conservation Commission is not required by statute to provide local agency matching resources or meet eligibility thresholds. Jim Eychaner is conducting outreach on general eligibility thresholds for nonprofits. This proposal addresses nonprofit eligibility thresholds only to the extent of establishing baseline criteria for nonprofit applicants to the Farmland Preservation Program.
Jim Aldrich, Friends of the Fields	The proposed changes to the Washington Wildlife and Recreation Program's Farmland Preservation Program fundamentally seem sound.	
Joanna Grist, Washington Wildlife and Recreation Coalition	We agree with the staff recommendations. No additional changes should be made beyond that.	

[4] In some cases, the remarks have been edited for brevity.

Commenter	Summarized Comments [4]	Staff Response (if applicable)
Jim Cahill, Puget Sound Partnership	We support the amendment to revise the environmental values criteria to include environmental benefits. …. We also support the proposed amendments, in alignment with RCW 79A.15.130, to allow nonprofit nature conservancy organizations and the State Conservation Commission to receive program funds. Although not specifically discussed in the changes currently under consideration, we would like to draw your attention to a current concern …. Currently, grants made under the Farmland Preservation Program prohibit future habitat restoration projects on the agricultural land that is protected. Within the Puget Sound region and with landowner consent, future restoration action should be allowable on the protected agricultural land. ….	
Pat Powell, Whidbey Camano Land Trust	We support the first two proposals. Proposal #3: We recommend revising the requirement to read: "*Demonstrate the preservation of agricultural land as a priority of the organization.*" This provides the applicant with the flexibility to demonstrate how they've documented protection of agricultural lands as a priority, which may vary from organization to organization. The intent of this requirement should be to ensure the organization has a commitment to protecting agricultural lands - period…. Proposal #4: We appreciate the effort being made to adjust the environmental criteria. However, as applicants we still find them confusing and it is unclear what the review panel is looking for, particularly given that there seems to be a significant amount of overlap between criteria. Rather than trying to make the current criteria work, we suggest starting over (i.e., rewriting with a focus on species support, habitat quality, and other benefits) ...	Staff made this revision. The new language proposed by this respondent will be kept for future consideration. A rewrite of the current criteria is outside the scope of the current effort.

Commenter	Summarized Comments [4]	Staff Response (if applicable)
Tom Niemann, Snohomish County	Proposals #1, #2, and #3: We support the policy amendments as proposed. Proposal #4: We strongly support the proposed addition of an environmental values criterion that awards points to projects that will provide environmental benefits while still keeping lands in agricultural production. However, we would like to suggest additional amendments to the environmental values criteria for acquisition-only projects: 1) Reduce the maximum number of points available for criteria 1 and 2 to six or fewer points each. 2) Increase the maximum number of points available for criterion 3 to at least five points. 3) Increase the maximum number of points available for proposed criterion 4 to at least seven points. …. We believe that projects that maximize the preservation of active agricultural lands while, at the same time, providing environmental benefits should be given priority over projects that remove land from agricultural production to provide fish and wildlife habitat.	