

## **EXHIBIT H: Docket Item 14-06**

### **14-06 Kittitas County Proposal:**

**Amend portions of KCC Title 15.04 to allow for consistency, clarity and compliance with the updated WAC Rule amendments (WAC 197-11) effective 5/10/14.**

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*Kittitas County Code Chapter 15.04, State Environmental Policy Act, is amended as follows:*

**Chapter 15.04  
STATE ENVIRONMENTAL POLICY ACT\***

**Article II. General Requirements**

**15.04.020 Purpose of this part and adoption by reference.**

This article contains the basic requirements that apply to the SEPA process. The county adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference, except as modified by additional definitions under KCC 15.04.030.

WAC

197-11-040 Definitions

197-11-050 Lead agency.

197-11-060 Content of environmental review.

197-11-070 Limitations on actions during SEPA process.

197-11-080 Incomplete or unavailable information.

197-11-090 Supporting documents.

197-11-100 Information required of applicants.

197-11-158 ~~SEPA~~/GMA project review - Reliance on existing plans, laws, and regulations.

197-11-164 Planned actions - Definitions and criteria.

197-11-168 Ordinances or resolutions designating planned actions - Procedures for adoption.

197-11-172 Planned actions - Project review

197-11-210 SEPA/GMA integration.

197-11-220 SEPA/GMA definitions.

197-11-228 Overall SEPA/GMA integration procedures.

197-11-230 Timing of an integrated GMA/SEPA process.

197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.

197-11-235 ~~SEPA/GMA integration~~ documents.

197-11-238 ~~SEPA/GMA integration~~ monitoring.

197-11-250 SEPA/Model Toxics Control Act integration.

197-11-253 SEPA lead agency for MTCA actions.

197-11-256 Preliminary evaluation.

197-11-259 Determination of nonsignificance for MTCA remedial actions.

197-11-262 Determination of significance and EIS for MTCA remedial actions.

197-11-265 Early scoping of MTCA remedial actions.

197-11-268 MTCA interim actions. (Ord. 2011-013, 2011)

**Article V. Commenting**

**15.04.160 Public notice.**

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1. Whenever possible, the county shall integrate the public notice required under this section with existing notice procedures for the county's nonexempt permit(s) or approval(s) required for the proposal.
2. Whenever the county issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the county shall give public notice as follows:
  - a. If public notice is required for the nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
  - b. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).
  - c. If no public notice is otherwise required for the permit or approval, the county shall give notice of the DNS or DS by:
    - ~~i. Posting the property, for site-specific proposals;~~
    - ~~ii. Publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation record in the county, city or general area where the proposal is located; and~~
    - ii. Whenever the county issues a DS under WAC 197-11-360(3), the county shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
    - iii. Mailing or emailing notice to all parties on the notice of application listing, as described in KCC Chapter 15A.03.
3. If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).
4. Whenever the county issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
  - a. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
  - b. Posting the property, for site-specific proposals;
  - c. Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located; and
  - d. Mailing a copy of the notice to property owners within five hundred feet of the proposal.
5. Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).
6. The county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 2011-013, 2011)

## Article VII. SEPA and Agency Decisions

### 15.04.200 Substantive authority.

1. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the county.
2. The county may attach conditions to a permit or approval for a proposal so long as:

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- a. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents pursuant to this chapter;
  - b. Such conditions are in writing;
  - c. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
  - d. The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  - e. Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
3. The county may deny a permit or approval for a proposal on the basis of SEPA so long as:
- a. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS pursuant to this chapter and
  - b. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
  - c. The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
4. The county designates and adopts by reference the following policies as the basis for the county's exercise of authority pursuant to this section:
- a. The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
    - i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
    - ii. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
    - iii. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
    - iv. Preserve important historical, cultural, and natural aspects of our national heritage;
    - v. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
    - vi. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
    - vii. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
  - b. The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
  - c. The county adopts by reference the policies in the following county ordinances, resolutions, plans, rules, and regulations by reference:
    - i. The Kittitas County [Comprehensive Floodplain Hazard](#) Management Plan; adopted December 1996, as may hereby be amended;
    - ii. The Kittitas County Shoreline Management Master Program, as may hereafter be amended;

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- iii. The Kittitas County Comprehensive Plan adopted December 2010, as may hereafter be amended;
- iv. Kittitas County Noise Ordinance, [Chapter 9.45](#) of this code;
- v. Kittitas County Zoning Code, [Title 17](#) of this code, as may hereafter be amended;
- ~~vi. The Kittitas County Building Code, [Chapter 14.04](#) of this code, as may hereafter be amended;~~
- ~~vii-vi.~~ The Kittitas County Flood Damage Prevention Ordinance, ~~[Title 14](#) of this code, as may hereafter be amended;~~
- ~~viii-vii.~~ The Kittitas County Recreation Plan/Outdoor Recreation Inventory, as may hereafter be amended
- ~~ix-viii.~~ The Kittitas County Building and Construction Code, [Title 14](#) of this code, as may hereafter be amended;
- ~~x-ix.~~ The Kittitas County Board of Health regulations, [Title 8](#) of this code;
- ~~xi-x.~~ Kittitas County Subdivision Code, [Title 16](#) of this code, as may hereafter be amended;
- ~~xii-xi.~~ The Kittitas County Roads and Bridges Code, [Title 12](#) of this code, as may hereafter be amended;
- ~~xiii.~~ ~~The Kittitas County Storm Water Management Ordinance, [Title 12](#) of this code, as may hereafter be amended;~~
- ~~xiv-xii.~~ The Kittitas County Critical Areas Ordinance, [Title 17A](#) of this code, as may hereafter be amended;
- ~~xv-xiii.~~ Kittitas County-wide planning policies, adopted July 26, 2010, as may hereafter be amended. (Ord. 2011-013, 2011)

**15.04.210 Appeals.\***

1. The county establishes the following administrative appeal procedures under [RCW 43.21C.075](#) and [WAC 197-11-680](#):
  - a. An administrative appeal relating to a FEIS or DNS for a nonexempt action that does not require a public hearing shall be heard by the board of county commissioners.
  - b. An administrative appeal relating to a FEIS or DNS for a nonexempt action that requires a public hearing shall be combined with and heard by the recommending body for the underlying action.
  - c. Administrative appeals relating to a DS shall be heard by the hearing examiner.
  - d. For any appeal under this subsection, the county shall provide for a record in compliance with [KCC 15A.07](#).
2. The county shall give official notice under [WAC 197-11-680\(5\)](#) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.
3. Subsequent appeals of SEPA determinations, after the Open Record appeal to either the Hearing Examiner or board of county commissioners, shall be made to Superior Court, or hearings board, as appropriate, as part of an appeal of the associated decision, and shall be timely if made to the appropriate appellate body within [ten \(10\) working days to the Kittitas County Board of Commissioners the time limits for the appeal of the associated decision. Such appeals shall be filed pursuant to Chapter 15A.07 KCC. The agency shall give official notice stating the date and place for commencing an appeal. If there is no time](#)

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period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

4. Appeals shall be of the governmental action together with its accompanying environmental determinations. Kittitas County shall consolidate an appeal of procedural issues made under Chapter 43.21C RCW and Chapter 15.04 KCC (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing body to consider the agency decision decision on a proposal and any environmental determinations made, with the exception of the appeal, if any, of a threshold determination of significance.

5. Appeals on SEPA procedures shall be limited to review of a final threshold determination and final EIS. These appeals may occur prior to an agency's final decision on a proposed action. Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

3-6. Kittitas County shall provide for only one appeal of a threshold determination or of the adequacy of an EIS. Successive appeals on these issues shall be to Superior Court of Hearing Board, as appropriate. (Ord. 2014-008, 2014; Ord. 2011-013, 2011)

\* Publisher's note: This section was mistakenly referred to as 15A.04.210 in Ordinance 2014-008.

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