

WORKING DRAFT
Kittitas County Critical Areas Ordinance Update
CAC Meeting Comment Response Matrix

Name, Date	Subject	Policy	Reg	Map	Comment/Concern/Recommended Change	Resolution/Response
Kevin Eslinger, 7/16/14	General	X			Suggested language for GPO 2.80: Minimize current and future land use incompatibilities in and around critical areas while recognizing existing property uses should be regulated only to the extent necessary to protect the ecological functions of existing critical areas.	Draft policy GPO 2.6.1.B states, "Review new and modified uses and structures to minimize land use incompatibilities in and around critical areas."
Kevin Eslinger, 7/16/14	General	X			Suggested language for GPO 2.81: Identify private property rights as the primary priority and ensure all implementing development regulations are cognizant of and consistent with private property rights.	The Growth Management Act identifies thirteen goals, including protecting property rights (private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions) and protecting the environment (protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water). None of the goals is identified as a primary priority. To be consistent with GMA, we will seek to balance the identified priorities as drafted in draft policy GPO 2.6.1.A which states, "Use best available science to regulate development in a manner that balances protection of property rights and human health and safety with protection of critical area functions and values."
Kevin Eslinger, 7/16/14	General	X			Suggested language for GPO 2.82: Ensure that all implementing development regulations relating to critical areas recognize, allow for and do not interfere with existing irrigation and agricultural practices.	This is a nonconforming use/structure issue. Draft policy GPO 2.6.1.G has been inserted in the working draft document as a <i>placeholder for a policy about uses/structures that will become nonconforming as the result of the updated Critical Areas Ordinance. Specific language for this policy will be discussed at the October CAC meeting.</i>
John Marvin, 7/23/14	General	X			Consider including the following goals/policies: <ul style="list-style-type: none"> • <i>Include the best available science in developing policies and development regulations to protect the functions and values of critical areas, consistent with WAC 365-195-900 through 365-195-925. RCW 36.70A.172</i> • <i>Inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species. WAC 365-195-900</i> • <i>Include the best available science in determining whether to grant applications for administrative variances and exemptions from generally applicable provisions in policies and development regulations adopted to</i> 	Draft policy GPO 2.6.1.A states, "Use best available science to regulate development in a manner that balances protection of property rights and human health and safety with protection of critical area functions and values." This meets the County's obligations under GMA. Furthermore, the use of best available science is also required for all critical area reports, including but not limited to those that would be submitted as part of a variance application. No changes are needed to ensure best available science is used in decision making.

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					<p>protect the functions and values of critical areas. WAC 365-195-915</p> <ul style="list-style-type: none"> Conservation or protection measures necessary to preserve or enhance anadromous fisheries include measures that protect habitat important for all life stages of anadromous fish, including, but not limited to, spawning and incubation, juvenile rearing and adult residence, juvenile migration downstream to the sea, and adult migration upstream to spawning areas. Special consideration should be given to habitat protection measures based on the best available science relevant to stream flows, water quality and temperature, spawning substrates, instream structural diversity, migratory access, estuary and nearshore marine habitat quality, and the maintenance of salmon prey species. Conservation or protection measures include long-term strategies to protect and enhance fisheries resources. WAC 365-195-925 (3) 	Draft policy GPO 2.6.1.E has been revised to read, "Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries, <u>including measures that protect habitat important for all life stages of anadromous fish.</u> "
John Marvin, 7/23/14	Critical Aquifer Recharge Areas (CARAs)	X			Please include WAC 365-190-100(3)(c) into the CARA policies and regulations. "Some aquifers may also have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat. Protecting adequate recharge of these aquifers may provide additional benefits in maintaining fish and wildlife habitat conservation areas."	Added draft policy GPO 2.6.4.D that states, "Recognize that some aquifers have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat and that protecting adequate recharge of such aquifers may benefit fish and wildlife habitat conservation areas."
John Marvin, 7/23/14	Critical Aquifer Recharge Areas (CARAs)		X	X	Include Class A water system, wellhead protection areas on the map. Consider including Class B water systems in CARA designation and protection. Data and mapping for both can be acquired from the Kittitas County Public Health Office or the Washington State Department of Health.	<p>The CARA designation includes areas required by law. The County does not intend to adopt a more expansive definition. Current mapping is gross scale and additional, detailed mapping is not budgeted at this time. To the extent that digital data is available, wellhead protection areas for Class A water system will be depicted on a revised map</p> <p>Draft policy GPO 2.6.4.B states, "Identify and map critical aquifer recharge areas. Continue data collection and evaluation efforts to better understand the vulnerability of County critical aquifer recharge areas to contamination."</p>
John Marvin, 7/23/14	Frequently Flooded Areas	X			Insert "designate" before "protect" in draft policy GPO 2.6.5.A. for GMA consistency. Utilize "designate and protect" consistently throughout comp plan. Consider a BAS reference in this policy.	Added "designate" to draft policy GPO 2.6.5.A. A reference to best available science in this policy would be duplicative of draft policy GPO 2.6.1.A, which applies to all critical areas.
John Marvin, 7/23/14	Frequently Flooded Areas	X			Consider adding some floodplain habitat policies, or reference to FWHCA, consistent with BAS.	The introductory narrative in draft section 2.6.5 includes habitat in the list of frequently flooded area functions. Draft policy GPO 2.6.5.A states, "Designate and protect the function and value of frequently flooded areas." The commenter correctly identifies

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						FWHCAs as a key strategy for protecting habitat functions within frequently flooded areas. No additional policy language is necessary.
John Marvin, 7/23/14	Frequently Flooded Areas		X		Good to see that FFA designation is not limited to the 100 yr floodplain, consistent with BAS. Soils surveys are a good source of data; include frequently flooded soils in other areas designation or use as a data/map source. Include designation of other frequently flooded areas be consistent with BAS (WAC 36-195-900 through 925). If the CAO is going to consider alluvial fans in 17A.06.15(3), then alluvial fans should be designated in 06.10.	The designation criteria for FFAs is consistent with the definition in WAC 365-190-030. No change recommended. Regulations regarding alluvial fan hazards are now included in the draft geological hazard areas (GHA) chapter.
John Marvin, 7/23/14	Frequently Flooded Areas		X		At the meeting, it was stated that there were standards in KCC 14.08 that were not consistent with BAS. If KCC 14.08 is going to be referenced and utilized as a CAO protection standard, it will have to be reviewed for consistency with the GMA and its rules (BAS).	The purpose of KCC 14.08 is to provide regulations that allow the County to participate in the National Flood Insurance Program. These regulations will not be revised at this time. The reference to KCC 14.08 will be removed from the FFA chapter, and added to the "Relationship to Other Regulations" section in the Administrative Provisions chapter.
John Marvin, 7/23/14	Frequently Flooded Areas		X		Good to see that alluvial fans are included, but the alluvial fan section needs a lot more substance or a reference to a geo hazard section that has more specific regulations pertaining to alluvial fans.	More detailed regulations regarding alluvial fan hazards are now included in the draft geological hazard areas (GHA) chapter.
John Marvin, 7/23/14	Frequently Flooded Areas		X		Replace incomplete list in 17A.06.20(1)(b) with a requirement to include all critical areas within 300 feet of site.	The general reporting requirements for all critical areas (in Chapter 17A.01) require that all critical areas report s identify the locations of all known critical areas on or adjacent to a development site. No change recommended.
John Marvin, 7/23/14	Frequently Flooded Areas		X		Insert "geologist" in 17A.06.25(3)	Revision made.
John Marvin, 7/23/14	Frequently Flooded Areas	X	X		There are no policies/standards concerning impervious surfaces, inconsistent with BAS.	Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate. Regulations: The provisions in the FFA chapter apply to all developments, including impervious surfaces. No changes recommended.
John Marvin, 7/23/14	Frequently Flooded Areas	X	X		There are no policies/standards concerning subdivisions, inconsistent with BAS.	Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate.

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						Regulations: Subdivisions standards for all critical areas will be included in the "General Provisions" chapter, which will be provided to the CAC prior to the November meeting.
John Marvin, 7/23/14	Frequently Flooded Areas	X	X		There are no policies/standards concerning climate change and the protection and restoration of FFA, inconsistent with BAS.	<p>Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate.</p> <p>Regulations: Provisions for protecting the functions and values of floodplains, as well as requiring mitigation for floodplain impacts, are already incorporated into the draft regulations per the recommendations in the BAS report. A reference to mitigating flood hazards that may be exasperated by climate change has been added to the chapter purpose. The provisions of the draft chapter, which include floodplain avoidance and mitigation strategies, were developed to protect floodplains and human health and safety in light of potential changes in flood patterns due to climate change.</p>
John Marvin, 7/23/14	Frequently Flooded Areas		X		The BAS report discusses No Net Loss, Zero Rise, and Compensatory Mitigation, are all of these captured by the proposed standards?	The recommendations in the BAS report regarding no net loss of floodplain storage/compensatory floodplain mitigation have been incorporated in the draft FFA regulations. No change needed.
John Marvin, 7/23/14	Frequently Flooded Areas		X		Not all considerations for code updates in the BAS report are in the proposed CAO. Include all recommendations.	During code development and subsequent CAC review, a few of the code recommendations in the BAS report were not included in the draft regulations. The scientific justification for omitting these recommendations will be detailed in a forthcoming addendum cover memo to the BAS report.
John Marvin, 8/28/14	2.6.3 Fish and Wildlife Habitat Conservation Areas	X			Review goal statement for consistency with 365-190-130(1). Insert "sensitive" into first sentence list of species.	Revision made to introductory (goal) text of "Fish and Wildlife Habitat and Conservation Areas" subsection.
John Marvin, 8/28/14	2.6.3 Fish and Wildlife Habitat Conservation Areas	X			GPO 2.6.3A Insert "designate" before "protect" for GMA consistency. Review other sections for consistency.	"Designate and protect" language has been added to each section where appropriate to be consistent with GMA.
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Purpose and Intent		X		17A.01.XXX Purpose and Intent 1. The purpose of this Title is to designate and protect-classify the functions and values of ecologically sensitive areas/ <u>and hazardous areas and to protect these areas and their functions</u>	These comments will be considered when the full "General Provisions" chapter is drafted, for review and discussion at the November CAC meeting.

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					<p>and values.</p> <p>2. provide for reasonable use of private property.</p> <p>3. Kittitas County finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the County and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.</p> <p>4. The regulations of this Title are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.</p> <p>5. This Title is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Title to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards. RCW 36.70A.020(12)</p> <p>(CTED Model CAO Ord.)</p>	
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Authority		X		<p>17A.01.XXX Authority Please consider the following edits. <u>The Director may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this Title.</u></p>	These comments will be considered when the full "General Provisions" chapter is drafted, for review and discussion at the November CAC meeting.
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Applicability		X		<p>17A.01.XXX Applicability The CAO can eliminate some of the exemptions by being more explicit on what the CAO does and does not apply to. For example, if the CAO states that it does not apply to Forest Practices (except conversions), you can remove that from the exemptions list. The applicability to agriculture and ag activities should reference the VSP RCWs.</p> <p>1. Unless specifically exempted, regulations apply to all new or modified uses, activities, and developments within or adjacent</p>	These comments will be considered when the full "General Provisions" chapter is drafted, for review and discussion at the November CAC meeting.

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					to critical areas <u>and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the [city/county].</u>	
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Exemptions		X		<p>17A.01.XXX Exemptions. Exemptions are a difficult subject. Exemptions need to be extremely limited in scope and with a very explicit approval. Unlike Shorelines, there is nothing in the GMA or its rules about exemptions from critical areas standards. In Hazen et. al. v. Yakima County (case No. 08-1-0008c), the Eastern Washington Growth Management Hearings Board (EWGMHB) found that Yakima County had neither provided science to support its exemptions nor did it provide defined standards for the Administrator to base any decision or place any conditions on exempted activities. Since all critical areas decisions are to be founded on BAS, the exemptions resulted in a violation of RCW 36.70A.172. Yakima County subsequently removed all exemptions and addressed them through legal non-conforming status, applicability, allowed uses, or definition of “development”.</p> <p>A majority of the listed exemptions can be addressed through applicability, legal non-conformity allowed uses, or the definition of “development”, including exemptions 2,3,4,8,11,12,13,14,15 and 18. The CTED Model CAO Ordinance suggests some limited allowed uses when following BMPs. The remaining exemptions (1,5,6,7,9,10,16, and 17) are going to require some kind of process, definitions, and/or BAS, or deleted. For reference, the CTED CAO Model Ordinance only lists emergencies, operation/maintenance/repair, passive outdoor activities, and forest practices as exempt.</p>	These comments will be considered when the full “General Provisions” chapter is drafted, for review and discussion at the November CAC meeting.
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Exceptions		X		<p>17A.01.XXX Exceptions Consistent with the CTED CAO Model Ordinance, consider utilizing the hearing examiner for exceptions for the legal analysis required.</p>	These comments will be considered when the full “General Provisions” chapter is drafted, for review and discussion at the November CAC meeting.
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX General Protective Measures		X		<p>17A.01.XXX General Protective Measures – All of the proposed provisions are useful tools in the protection of critical areas, and are fully supported.</p> <p>1.a.iii. – Include “buffers” with habitat conservation areas, consistent with the other criterion.</p> <p>2.a.iii. - Include “buffers” with habitat conservation areas, consistent with the other criterion.</p> <p>3. Temporary or permanent field identification. This is a provision to protect the functions and values of critical areas. Why would the Director consult with</p>	These comments will be considered when the full “General Provisions” chapter is drafted, for review and discussion at the November CAC meeting.

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					the project proponent on protection measures? I don't see this consultation in any other protection measures. Permanent field identification (fencing, signage) is intended to protect critical areas into the future, and to inform future property owners of the presence, and legal requirements of a previous land use decision, contrary to the staff statement at the end of the paragraph.	
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Critical Areas Mitigation		X		17A.01.XXX Critical Areas Mitigation Consider adding the text below, consistent with the CTED CAO Model Ordinance. <u>Any action taken pursuant to this Title shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with this section to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.</u>	These comments will be considered when the full "General Provisions" chapter is drafted, for review and discussion at the November CAC meeting.
John Marvin, 8/28/14	Chapter 17A.01 General Provisions 17A.01.XXX Review Process		X		17A.01.XXX Review Process – Consider making critical areas review a standalone permit, including a notice of application and a comment period. Applying the CAO as an overlay creates a process that will often prohibit the Yakama Nation from participating in a process, in addition to denying the Yakama Nation the opportunity to insure its treaty reserved resources are protected. Under the current Project Permit Application code (KCC 15A), Flood development permits and Critical areas binding determinations are exempt from a notice of application (KCC 15A.03.080). To adequately protect the functions and values of critical areas, all developments proposed within or present the potential to adversely affect the functions and values of critical areas (variance, buffer reductions) should be permitted through a process that provides a notice of application and allows for comment.	These comments will be considered when the full "General Provisions" chapter is drafted, for review and discussion at the November CAC meeting.
John Marvin, 8/28/14	Chapter 17A.02 Definitions 17A.02.XXX Adjacent		X		17A.02.XXX Adjacent. This is a good definition and is fully supported. However, the inclusion of a bald eagles nest buffer brings into question how other upland wildlife species will be addressed. Other much more sensitive species like Blue Heron or Sage Grouse may not be adequately designated and protected. Would number 2 of the list include the upland wildlife buffer provisions in Table 17A.04.XXX?	This definition was taken verbatim from Commerce's model ordinance; it appears that the reference to bald eagle nests was in response to the to the State's bald eagle protection rules. However, the protection rules were recently amended to state that Bald Eagle Management plans are no longer required unless Bald Eagles are listed as Threatened or Endangered in Washington State (they are currently listed as a 'sensitive species'). Therefore, the reference to bald eagle nests in the

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						"adjacent" definition has been removed.
John Marvin, 8/28/14	Chapter 17A.02 Definitions 17A.02.XXX Priority Habitat		X		<p>17A.02.XXX Priority Habitat.</p> <p>"Priority habitat" means a habitat type with a unique or significant value to one (1) or more species. An area classified and mapped as priority habitat must have one (1) or more of the following attributes: comparatively high fish or wildlife densities; comparatively high fish or wildlife species diversity; <u>important fish and wildlife spawning/breeding habitat</u>; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridors; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish beds. A priority habitat may be described by its unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(28)).[Revised Final Draft SMP]</p> <p>A reference to the SMA guidelines is inappropriate in a CAO. The definition, as edited, is consistent with the WDFW PHS List (2008): http://wdfw.wa.gov/publications/00165/wdfw00165.pdf</p>	Revision made.
John Marvin, 8/28/14	Chapter 17A.02 Definitions 17A.02.XXX Priority Species		X		<p>17A.02.XXX Priority Species.</p> <p>"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. <u>Priority species include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable.</u> Priority species are those that meet any of the criteria listed in WAC 173-26-020(29).[Revised Final Draft SMP] <u>A species identified and mapped as priority species fit one or more of the following criteria:</u></p> <p><u>Criterion 1. State-Listed and Candidate Species:</u></p> <p><u>State-listed species are native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011), or Sensitive (WAC 232-12-011). State Candidate species are fish and wildlife species that will be reviewed by the department (POL-M-6001) for possible listing as</u></p>	The existing definition contains a reference to the WAC, which details the priority species criteria that is specified. No change recommended.

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					<p>Endangered, Threatened, or Sensitive according to the process and criteria defined in WAC-232-12-297.</p> <p><u>Criterion 2. Vulnerable Aggregations:</u> <u>Vulnerable aggregations include species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to aggregate. Examples include heron rookeries, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.</u></p> <p><u>Criterion 3. Species of Recreational, Commercial, and/or Tribal Importance:</u> <u>Native and non-native fish and wildlife species of recreational or commercial importance, and recognized species used for tribal ceremonial and subsistence purposes, whose biological or ecological characteristics make them vulnerable to decline in Washington or that are dependent on habitats that are highly vulnerable or are in limited availability.</u></p> <p><u>A reference to the SMA guidelines is inappropriate in a CAO. The definition, as edited, is consistent with the WDFW PHS List (2008): http://wdfw.wa.gov/publications/00165/wdfw00165.pdf</u></p>	
John Marvin, 8/28/14	Chapter 17A.02 Definitions 17A.02.XXX Development		X		17A.02.XXX Development - This is a good definition and is fully supported.	Comment noted.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Purpose of Chapter		X		17A.04.XXX Purpose of Chapter The purpose of this chapter is to identify <u>designate</u> and protect regulated <u>critical</u> fish and wildlife species and habitats, including anadromous species and their habitats, <u>consistent with the best available science.</u>	Revisions made.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Designation, Mapping, and Classification		X		17A.04.XXX Designation, Mapping, and Classification. The designation scheme is confusing. At first review, it looked like the CAO was only designating <u>aquatic</u> T, E and S species. This is what necessitated the proposed edits to the definitions of priority habitats and species, which will cover stated listed species. Are all federally listed species covered by state listing? To be all-inclusive, it is recommended that "aquatic" be deleted as a standard for state and federal T, E, S species. State Priority Habitats and Species covers subsection c, so that could be deleted, or combined with subsection b to cover all areas of primary association for federal and state listed T, E, and S species. In addition, the lists of T, E, and S species from the BAS report should be added as an appendix, or at least referenced for future review.	<p>The designation system is identical to the system codified in WAC 365-190-130. No change recommended.</p> <p>The format of the FWHCA chapter follows the format of the model ordinance. However, the substantive portions of the chapter, such as buffers, reporting standards, etc. are identical to the SMP. Special regulations for docks, shoreline stabilization, etc. were incorporated directly in the FWHCA chapter, as opposed to the FWHCA regulations in the SMP. That is because individual chapters in the SMP are dedicated to these uses. No change recommended.</p>

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					The proposed standards are inconsistent with the draft Shoreline Master Program critical areas provisions. It seems like two very different set of critical areas standards will be confusing to the public, and difficult to administer. The standards in the SMP were well vetted through the TAC and CAC. It is recommended that the proposed CAO provisions be deleted and replaced with the standards in the draft SMP for aquatic and wildlife habitat conservation areas.	
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Mapping		X		17A.04.XXX.2. Mapping – It is Kittitas County’s responsibility to designate and protect critical areas. The provision requiring the “Permit applicant” to be responsible for determining if critical areas are present is inconsistent with the GMA and its requirements to include BAS.	Revision made.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Habitat Boundary Survey		X		17A.04.XXX.3. Habitat Boundary Survey – Excluding aquatic habitat conservation areas from this standard is inconsistent with the GMA and its requirements to include BAS. The process from habitat survey to habitat management plan is confusing and unorganized. The designation and process should be first, then the protection provisions last in the section. Waivers from habitat surveys and management plans must be based on BAS, including consultation with scientists from the WDFW and the Yakama Nation. It is inappropriate for the Director to waive these requirements without BAS. The first step, after maps, should be a survey to determine if the habitat is present on the area proposed for development, then if there is habitat present, a management plan.	The purpose of the habitat boundary survey regulation is to detail the requirements for when a wildlife habitat survey may be required. Unlike streams and water bodies, it is difficult for the layperson to determine if a particular area meets the requirements to be considered a priority habitat. The reporting requirements section requires that the OHWM of waterbodies be identified. No change recommended. Given the course-nature of the existing habitat maps, the County should maintain some flexibility over when a habitat study is required. The waiver from the study requirements can only be used under certain conditions, as specified in the regulations. No change recommended.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Waters of the State Classification		X		17A.04.XXX.4. Waters of the State Classification. Please consider the requirements of RCW 365-190-130 (f)(ii) “Counties and cities that use the stream typing system developed by the department of natural resources should develop a process to verify actual stream conditions, identify flow alterations, and locate fish passage barriers by conducting a field visit. Field verification of all intermittent or nonfish bearing streams should occur during the wet season months of October to March or as determined locally.”	We will consider this recommendation. Please note, the RCW says “should,” therefore, this is not a statutory requirement.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Habitats and Species of Local Importance Designation and Process		X		17A.07 .XXX Habitats and Species of Local Importance Designation and Process – While the County is not required to designate any specific habitats or species without a specific proposal in front of them, case law has established that there must be a process to designate and protect them in the future. It is recommended to include a requirement that proposals are required to be consistent with the BAS and specify that the proposal would be processed as a	A habitat and species of local importance designation process will be developed that is consistent with GMA requirements. This issue will likely be revisited at a future CAC meeting based on discussion at the August 2014 CAC meeting.

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					comp plan/regulatory amendment consistent with KCC Title 15A. I was confused by the consternation of the CAC on this subject. The County has had it in the code for 20 years, how many applications has the County processed in that time?	
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Buffers		X		17A.04.XXX Buffers – I need to digest the BAS report and the proposed buffers more before commenting.	Comment noted.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Increased Buffers		X		17A.04.XXX.5. Increased Buffers. Consider adding the following criteria: <ul style="list-style-type: none"> • T, E, S species use; • Anadromous species use • Spawning or breeding habitat; • Intensity of the proposed use; • Areas of highly functioning riparian habitat. 	The proposed standard buffer widths were based upon BAS, which shows that the buffers are adequate to protect aquatic habitats and species. No change recommended.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Buffer Averaging and Reduction		X		17A.04.XXX.6 and .7 Buffer Averaging and Reduction. There should be a preference to averaging over reduction, consistent with mitigation sequencing. First step is to average the buffer through avoidance and minimization and a reduction is only allowed when associated with a mitigation plan, and is the minimum necessary to afford the proposed use. Include subsection c of averaging into the provisions for reduction. <i>“c. The buffer averaging reduction will not reduce aquatic habitat functions or adversely affect salmon habitat;”</i>	Revisions made.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Permitted Activities		X		17A.04.XXX Permitted Activities. The standard of <i>“No net loss of riparian habitat functions”</i> in in subsection 3.d. should be required in each permitted use.	Revision made.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Stream Bank Stabilization		X		17A.04.XXX.2. Stream Bank Stabilization g. What is the definition of an “existing legally-established permanent structure”? Protecting a single-family residence is acceptable, but protecting accessory structures like sheds or outhouses is not. All proposals for stream bank stabilization should be required to utilize the WDFW Integrated Streambank Protection Guidelines (ISPG) http://wdfw.wa.gov/publications/00046/wdfw00046.pdf	An “existing legally-established permanent structure” is a structure that was constructed pursuant to the relevant regulations that were on the books at the time the structure was built. Regulation revised to apply only to “primary” structures.
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Instream Structures		X		17A.04.XXX.6. Instream Structures What is <i>“an approved water basin restoration project approved by the County.”</i> ? There are a number of restoration plans that have been developed	Revision made (changed to ‘County-approved’ restoration project).

Name, Date	Subject	Policy	Reg	Map	Comment/Concern/Recommended Change	Resolution/Response
					<p>in the Yakima Basin, so any reference needs to be more specific, or delete the requirement. Most instream habitat structures are intended to modify flows and adversely affect habitat in a positive direction. Not sure what this standard is trying to accomplish.</p> <p><i>“restoration actions formally identified by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the Salmon Recovery Board Habitat Project List or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.”</i></p>	
John Marvin, 8/28/14	Chapter 17A.04 Fish and Wildlife Habitat Conservation Areas 17A.04.XXX Onsite Sewage Systems and Wells		X		<p>17A.04.XXX.6. Onsite Sewage Systems and Wells</p> <p>The Kittitas Public Health Department should be consulted on this section. I believe there is a minimum 100-foot setback from Onsite Sewage Systems and wells/surface waters.</p>	No change recommended. This section does not supersede the water/sewer requirements of KCC Title 13 (Water and Sewers); any requirements of that Title would still apply. The Health Department staff has been consulted with on earlier versions of the draft critical areas code (e.g., CARAs) and will continue to have the opportunity to review the draft code for consistency with Title 13.

DRAFT