

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENT OF KITTITAS COUNTY
SHORELINE MASTER PROGRAM**

SMP Submittal accepted December 17, 2018. Resolution No. 2018-195
Prepared by Department of Ecology on December 18, 2018

Brief Description of Proposed Amendment

Kittitas County has submitted Shoreline Master Program (SMP) amendments to Ecology for approval. The proposed amendments are to Section 3.7 of the SMP, the Historic/cultural element. The amendments include adoption of policies and regulations for identifying, protecting, and preserving cultural, archaeological, and historic resources. The regulations establish notice and comment requirements for cultural resource review and criteria for archeological survey requirements. The amendments also include additional definitions.

FINDINGS OF FACT

Need for Amendment

On February 22, 2016, the Department of Ecology approved the County's SMP. Subsequently, the Yakama Nation petitioned the Growth Management Hearings Board for review of the SMP, challenging the adequacy of the SMP's provisions dealing with cultural, historical, and archeological resources. Kittitas County, the Washington State Department of Ecology (Ecology), and the Yakama Nation have engaged in a series of settlement negotiations and have developed the proposed SMP amendment that address the respective concerns of all parties and that meet or exceed the requirement of the Shoreline Management Act. The proposed amendments were included in a settlement agreement that was executed by all parties on May 3, 2018. In the settlement agreement, Kittitas County agreed to take all actions necessary to adopt these proposed SMP amendments using the optional joint review process outlined in WAC 173-26-104.

Amendment History & Review Process

The proposed SMP amendments were developed during settlement discussions with the parties of the settlement agreement. The County involved the public in accordance with WAC 173-26-104 to inform, involve and encourage participation of interested persons, private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines.

The County consulted with Ecology and solicited comments throughout the review process. Notice of the joint local/state review process was provided in accordance with WAC 173-26-104(2)(c)(i) on June 8, 2018, and August 3, 2018. The County provided notice to local parties. Ecology distributed notice of the joint comment period to state interested parties on June 7, 2018. A joint public hearing was conducted before the Kittitas County Planning Commission in accordance with WAC 173-26-104(2)(c)(ii) on August 28, 2018. The 30 day public comment period closed on September 4, 2018. The Planning Commission recommended approval of the SMP amendments with one minor revision. No written public comments were received during the comment period.

On October 1, 2018, Kittitas County staff submitted the proposed SMP amendments to Ecology in accordance with WAC 173-26-104(3). Ecology prepared an initial determination that the amendment is consistent with the policy of the SMA and applicable guidelines. On October 3, 2018, Ecology issued a written statement of initial concurrence for the SMP amendment.

Notice of the Board of County Commissioner public hearing was published in the Daily Record on October 18, 2018 and October 25, 2018. The Kittitas County Board of County Commissioners held a public hearing on November 20, 2018, to hear public testimony on the proposed SMP amendments. After deliberation, the Kittitas County Board of County Commissioners approved the proposed SMP amendments. On December 4, 2018 the Kittitas County Board of County Commissioners approved Resolution 2018-195 ordering the Development Services Director to submit the SMP to Ecology for final approval.

Consistency with Chapter 90.58 RCW

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions).

Consistency with SEPA Requirements

The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments. Ecology did not comment on the DNS.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted, Ecology concludes that the County proposed amendments are consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the SMP amendments will assure that no net loss of shoreline ecological functions will result from implementation of the amended master program (WAC 173-26-201(2)(c)).

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-104 regarding public and agency involvement in the SMP review and amendment process.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County SMP submittal to Ecology was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-104, and WAC 173-26-110.

Ecology concludes that it has complied with the procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-104, WAC 173-26-110, and WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective 14 days from Ecology's final action approving the amendment.