

Chapter 24.04

STATE ENVIRONMENTAL POLICY ACT

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1 **Article I. General Provisions**

2
3 **24.04.010 Authority**

4
5 (a) Grant County adopts this Chapter under the State Environmental Policy Act (SEPA), RCW
6 43.21C.120, and the SEPA rules, WAC 197-11-904 for the purpose of establishing SEPA procedures
7 and policies and conducting environmental review of SEPA in governmental decision making. The
8 SEPA rules, WAC 197-11, must be used in conjunction with this Chapter.
9

10 **24.04.020 Adoption by Reference**

11
12 (a) This article contains the basic requirements that apply to the SEPA process. The County adopts the
13 following sections of Chapter 197-11 of the Washington Administrative Code by reference:
14

- 15 WAC 197-11-040 Definitions.
- 16 WAC 197-11-050 Lead agency.
- 17 WAC 197-11-060 Content of environmental review.
- 18 WAC 197-11-070 Limitations on actions during SEPA process.
- 19 WAC 197-11-080 Incomplete or unavailable information.
- 20 WAC 197-11-090 Supporting documents.
- 21 WAC 197-11-100 Information required of Applicants.
- 22 WAC 197-11-158 GMA project review-reliance on existing plans and regulations.
- 23 WAC 197-11-210 SEPA/GMA integration.
- 24 WAC 197-11-220 SEPA/GMA definitions.
- 25 WAC 197-11-228 Overall SEPA/GMA integration procedures.
- 26 WAC 197-11-230 Timing of an integrated SEPA/GMA process.
- 27 WAC 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental
28 analysis, and expanded scoping.
- 29 WAC 197-11-235 Documents.
- 30 WAC 197-11-238 Monitoring.
- 31 WAC 197-11-250 SEPA/Model Toxics Control Act integration.
- 32 WAC 197-11-253 SEPA lead agency for MTCA actions.
- 33 WAC 197-11-256 Preliminary evaluation.
- 34 WAC 197-11-259 Determination of Nonsignificance for MTCA remedial actions.
- 35 WAC 197-11-262 Determination of Significance and EIS for MTCA remedial actions.
- 36 WAC 197-11-265 Early scoping for MTCA remedial actions.
- 37 WAC 197-11-268 MTCA interim actions.

38
39 **24.04.030 Definitions**

40
41 (a) This section contains uniform usage and definitions of terms under SEPA. The County adopts the
42 following sections by reference, as supplemented by WAC 173-806-040:
43

- 44 WAC 197-11-700 Definitions.
- 45 WAC 197-11-702 Act.
- 46 WAC 197-11-704 Action.
- 47 WAC 197-11-706 Addendum.
- 48 WAC 197-11-708 Adoption.
- 49 WAC 197-11-710 Affected right.
- 50 WAC 197-11-712 Affecting.

1	WAC 197-11-714	Agency.
2	WAC 197-11-716	Applicant.
3	WAC 197-11-718	Built environment
4	WAC 197-11-720	Categorical exemption.
5	WAC 197-11-722	Consolidated appeal.
6	WAC 197-11-724	Consulted agency.
7	WAC 197-11-726	Cost-benefit analysis.
8	WAC 197-11-728	County/city.
9	WAC 197-11-730	Decision maker.
10	WAC 197-11-732	Department.
11	WAC 197-11-734	Determination of non-significance (DNS).
12	WAC 197-11-736	Determination of significance (DS).
13	WAC 197-11-738	EIS.
14	WAC 197-11-740	Environment.
15	WAC 197-11-742	Environmental checklist.
16	WAC 197-11-744	Environmental document.
17	WAC 197-11-746	Environmental review.
18	WAC 197-11-748	Environmentally sensitive area.
19	WAC 197-11-750	Expanded scoping.
20	WAC 197-11-752	Impacts.
21	WAC 197-11-754	Incorporation by reference.
22	WAC 197-11-756	Lands covered by water.
23	WAC 197-11-758	Lead agency.
24	WAC 197-11-760	License.
25	WAC 197-11-762	Local agency.
26	WAC 197-11-764	Major action.
27	WAC 197-11-766	Mitigated DNS.
28	WAC 197-11-768	Mitigation.
29	WAC 197-11-770	Natural environment.
30	WAC 197-11-772	NEPA
31	WAC 197-11-774	Nonproject.
32	WAC 197-11-776	Phased review.
33	WAC 197-11-778	Preparation.
34	WAC 197-11-780	Private Property.
35	WAC 197-11-782	Probable.
36	WAC 197-11-784	Proposal.
37	WAC 197-11-786	Reasonable alternative.
38	WAC 197-11-788	Responsible official.
39	WAC 197-11-790	SEPA.
40	WAC 197-11-792	Scope.
41	WAC 197-11-793	Scoping.
42	WAC 197-11-794	Significant.
43	WAC 197-11-796	State agency.
44	WAC 197-11-797	Threshold determination.
45	WAC 197-11-799	Underlying governmental action.

24.04.040 Additional Definitions

(a) In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this Chapter, the following terms shall have the following meanings, unless the context indicates

1 otherwise:

- 2 (1) "SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology.
3 (2) "Early notice" means the County's response to an Applicant stating whether it considers issuance
4 of a determination of significance likely for the Applicant's proposal (mitigated determination of
5 non-significance (DNS) procedures).
6 (3) "County" means the municipal corporation of Grant County, Washington.
7 (4) "Ordinance" means the ordinance, resolution, or other procedure used by the County to adopt
8 regulatory requirements.
9 (5) "Department" means any division, subdivision or organizational unit of the County established
10 by ordinance, rule, or order.

11
12 **24.04.050 Designation of Responsible Official**

- 13
14 (a) For those proposals for which the County is the lead agency, the Responsible Official shall be the
15 Director of the Grant County Department of Community Development or his/her designee.
16
17 (b) For all proposals for which the County is the lead agency, the Responsible Official shall make the
18 threshold determination, supervise scoping and preparation of any required Environmental Impact
19 Statement (EIS), and perform any other functions assigned to the "Lead Agency" or "Responsible
20 Official" by those Sections of the SEPA rules that were adopted by reference in GCC § 24.04.020.
21
22 (c) For those proposals requiring specialized expertise, the Responsible Official may request information
23 necessary to discharge his/her responsibilities under this section from, but not limited to, other
24 Departments, other agencies with jurisdiction, and/or a technical advisory committee designated by
25 the legislative authority of the County. Such information as can be reasonably supplied by those
26 Departments, other agencies and the technical advisory committee, shall be transmitted to the
27 Responsible Official in a timely manner.
28
29 (d) The County shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make
30 them available in accordance with Chapter 42.17 RCW.
31

32 **24.04.060 Lead Agency Determination and Responsibilities**

- 33
34 (a) The County Department receiving an application for or initiating a proposal that involves a
35 nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-
36 11-922 through 197-11-940, unless the lead agency has been previously determined or the County
37 Department is aware that another agency is in the process of determining the lead agency.
38
39 (b) When the County is the lead agency for a proposal, the County Department receiving the application
40 shall notify the Responsible Official who shall supervise compliance with the threshold determination
41 requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
42
43 (c) When the County is not the lead agency for a proposal, all County Departments shall use and
44 consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on
45 the proposal. No County Department shall prepare or require preparation of a DNS or EIS in addition
46 to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the
47 County may conduct supplemental environmental review under WAC 197-11-600.
48
49 (d) If any County Department receives a lead agency determination made by another agency that appears
50 inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the

1 determination. Any objection must be made to the agency originally making the determination and
2 resolved within 15 days of receipt of the determination, or the County must petition the Department
3 of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period.
4 The Responsible Official may initiate any such petition on behalf of the County.
5

- 6 (e) The Responsible Official is authorized to make agreements as to lead agency status or shared lead
7 agency duties for a proposal under WAC 197-11-942 and 197-11-944, provided, that the Responsible
8 Official and any County Department that will incur responsibilities as the result of such agreement
9 approve the agreement.
10
- 11 (f) The Responsible Official making a lead agency determination for a private project shall require
12 sufficient information from the Applicant to identify which other agencies have jurisdiction over the
13 proposal.
14
- 15 (g) When the County is lead agency for a MTCA remedial action, the Department of Ecology shall be
16 provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to
17 public notice being provided. If the SEPA and MTCA documents are issued together with one public
18 comment period under WAC 197-11-253(6), the County shall decide jointly with Ecology who
19 receives the comment letters and how copies of the comment letters will be distributed to the other
20 agency.
21

22 **24.04.070 Time Limits Applicable to the SEPA Process**

23

- 24 (a) The following time limits (expressed in calendar days) shall apply when the County processes
25 licenses for all private projects and those governmental proposals submitted to the County by other
26 agencies:
27 (1) Categorical Exemptions: The County shall identify whether an action is categorically exempt
28 within seven days of receiving a completed application.
29 (2) Threshold Determinations:
30 (A) The County should complete threshold determinations that can be based solely upon review
31 of the environmental checklist for the proposal within fifteen days of the date an applicant's
32 adequate application and completed checklist are submitted.
33 (B) When the Responsible Official requires further information from the applicant or
34 consultation with other agencies with jurisdiction:
35 (i) The County should request such further information within fifteen days of receiving
36 an adequate application and completed environmental checklist;
37 (ii) The County shall wait no longer than thirty days for a consulted agency to respond;
38 (iii) The Responsible Official should complete the threshold determination within fifteen
39 days of receiving the requested information from the applicant or the consulted
40 agency.
41 (C) When the County must initiate further studies, including field investigations, to obtain the
42 information to make the threshold determination, the County should complete the studies
43 within thirty (30) days of receiving an adequate application and a completed checklist.
44 (D) The County shall complete threshold determinations on actions where the applicant
45 recommends in writing that an EIS be prepared, because of the probable significant adverse
46 environmental impact(s) described in the application, within fifteen (15) days of receiving
47 an adequate application and completed checklist.
48 (E) The time limits set forth in this subsection shall not apply to withdrawals of affirmative and
49 negative threshold determinations where such withdrawals are made in accordance with
50 WAC 197-11-340 or WAC 197-11-360.

- 1 (F) When a threshold determination is expected to require more than fifteen (15) days to
2 complete and private applicant requests notification of the date when a threshold
3 determination will be made, the lead agency shall transmit to the private applicant a written
4 statement as to the expected date of decision.
5

6 **24.04.070 Additional Timing Considerations**
7

- 8 (a) For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the County's staff
9 recommendation to any appropriate advisory body, such as the Planning Commission.
10
11 (b) If the County's only action on a proposal is a decision on a building permit or other license that
12 requires detailed project plans and specifications, the Applicant may request in writing that the
13 County conduct environmental review prior to submission of the detailed plans and specifications.
14 The County may conduct environmental review prior to submission of the detailed plans and
15 specifications; provided that adequate information is furnished to allow the Responsible Official to
16 make a threshold determination.
17

18 **Article II. Categorical Exemptions and Threshold Determinations**
19

20 **24.04.080 Adoption by Reference**
21

- 22 (a) This article contains the rules for deciding whether a proposal has a “probably significant, adverse
23 environmental impact” requiring an environmental impact statement (EIS) to be prepared. This part
24 also contains rules for evaluating the impacts of proposals not requiring an EIS. The County adopts
25 the following sections by reference, as supplemented in this part:
26

27	WAC 197-11-300	Purpose of this part.
28	WAC 197-11-305	Categorical exemptions.
29	WAC 197-11-310	Threshold determination required.
30	WAC 197-11-315	Environmental checklist.
31	WAC 197-11-330	Threshold determination process.
32	WAC 197-11-335	Additional information.
33	WAC 197-11-340	Determination of Nonsignificance (DNS).
34	WAC 197-11-350	Mitigated DNS.
35	WAC 197-11-355	Optional DNS process.
36	WAC 197-11-360	Determination of significance (DS)/initiation of scoping.
37	WAC 197-11-390	Effect of threshold determination.

38
39 **24.04.090 Flexible Thresholds for Categorical Exemptions**
40

- 41 (a) Grant County establishes the following exempt levels for minor new construction under WAC 197-
42 11-800(1)(b), based on local conditions, except when undertaken wholly or partly on lands covered
43 by water:
44 (1) For the construction or location of any residential dwelling units in WAC 197-11-800(1)(b)(i):
45 Up to 20 dwelling units.
46 (2) For the construction of agricultural structures in WAC 197-11-800(1)(b)(ii): Up to 30,000 square
47 feet.
48 (3) For office, school, commercial, recreational, service or storage buildings including places of
49 worship in WAC 197-11-800(1)(b)(iii): Up to 12,000 square feet and 40 parking spaces.
50 (4) For parking lots in WAC 197-11-800(1)(b)(iv): Up to 40 parking spaces.

1 (5) For landfills and excavations in WAC 197-11-800(1)(b)(v): Up to 500 cubic yards.

2
3 (b) These categorical exemptions from SEPA shall not exempt these projects from review under GCC §
4 24.08 – Critical Areas Ordinance.

5
6 (c) Whenever the County establishes new exempt levels under this Section, it shall send them to the
7 Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-
8 800(1)(c).

9
10 **24.04.100 Use of Exemptions**

11
12 (a) Each County Department that receives an application for a license or, in the case of governmental
13 proposals, the department initiating the proposal, shall determine whether the license and/or the
14 proposal are exempt. The County Department's determination that a proposal is exempt shall be final
15 and not subject to administrative review. If a proposal is exempt, none of the procedural requirements
16 of this Chapter apply to the proposal. The County shall not require completion of an environmental
17 checklist for an exempt proposal.

18
19 (b) In determining whether or not a proposal is exempt, the County Department shall make certain the
20 proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-
21 060). If a proposal includes exempt and nonexempt actions, the County Department shall determine
22 the lead agency, even if the license application that triggers the County Department's consideration is
23 exempt.

24
25 (c) If a proposal includes both exempt and nonexempt actions, the County may authorize exempt actions
26 prior to compliance with the procedural requirements of this Chapter, except that:

27 (1) The County shall not give authorization for:

28 (A) Any nonexempt action;

29 (B) Any action that would have an adverse environmental impact; or

30 (C) Any action that would limit the choice of alternatives.

31 (2) A County Department may withhold approval of an exempt action that would lead to
32 modification of the physical environment, when such modification would serve no purpose if
33 nonexempt action(s) were not approved; and

34 (3) A County Department may withhold approval of exempt actions that would lead to substantial
35 financial expenditures by a private Applicant when the expenditures would serve no purpose if
36 nonexempt action(s) were not approved.

37
38 **24.04.110 Environmental Checklist**

39
40 (a) Except as provided in subsection (c) of this section, a completed environmental checklist (or a copy),
41 in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a
42 permit, license, certificate, or other approval not specifically exempted in this Chapter; except, a
43 checklist is not needed if the County and Applicant agree an EIS is required, SEPA compliance has
44 been completed, or SEPA compliance has been initiated by another agency. The County shall use the
45 environmental checklist to determine the lead agency and, if the County is the lead agency, for
46 determining the Responsible Official and for making the threshold determination.

47
48 (b) For private proposals, the County will require the Applicant to complete the environmental checklist,
49 providing assistance as necessary. For County proposals, the department initiating the proposal shall
50 complete the environmental checklist for that proposal.

- 1 (c) The County may require that it, and not the private applicant, will complete all or part of the
2 environmental checklist for a private proposal if either of the following occur:
3 (1) The County has technical information on a question or questions that is unavailable to the
4 private applicant; or
5 (2) The applicant has provided inaccurate information on previous proposals or on proposals
6 currently under consideration.
7
- 8 (d) For all proposals for which the County is the lead agency, the Responsible Official shall make the
9 threshold determination pursuant to the criteria and procedures of WAC 197-11-310 through 340,
10 subject to the appeal procedures of section 24.04.220 of this Chapter.
11

12 **24.04.120 Mitigated DNS**
13

- 14 (a) As provided in this Section and in WAC 197-11-350, the Responsible Official may issue a DNS
15 based on conditions attached to the proposal by the Responsible Official or on changes to, or
16 clarifications of, the proposal made by the Applicant.
17
- 18 (b) An Applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350.
19 The request must:
20 (1) Follow submission of a permit application and environmental checklist for a nonexempt
21 proposal for which the County Department is lead agency; and
22 (2) Precede the County's actual threshold determination for the proposal.
23
- 24 (c) The Responsible Official should respond to the request for early notice within 15 working days. The
25 response shall:
26 (1) Be written;
27 (2) State whether the County currently considers issuance of a DS likely and, if so, indicate the
28 general or specific area(s) of concern that is/are leading the County to consider a DS; and
29 (3) State that the Applicant may change or clarify the proposal to mitigate the indicated impacts,
30 revising the environmental checklist and/or permit application as necessary to reflect the
31 changes or clarifications.
32
- 33 (d) As much as possible, the County should assist the Applicant with identification of impacts to the
34 extent necessary to formulate mitigation measures.
35
- 36 (e) When an Applicant submits a changed or clarified proposal, along with a revised or amended
37 environmental checklist, the County shall base its threshold determination on the changed or clarified
38 proposal and should make the determination within 15 days of receiving the changed or clarified
39 proposal:
40 (1) If the County indicated specific mitigation measures in its response to the request for early
41 notice, and the Applicant changed or clarified the proposal to include those specific mitigation
42 measures, the County shall issue and circulate a DNS under WAC 197-11-340
43 (2) If the County indicated areas of concern, but did not indicate specific mitigation measures that
44 would allow it to issue a DNS, the County shall make the threshold determination, issuing a
45 DNS or DS as appropriate.
46 (3) The Applicant's proposed mitigation measures (clarifications, changes or conditions) must be in
47 writing and must be specific. For example, proposals to "control noise" or "prevent stormwater
48 runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-
49 foot stormwater retention pond at Y location" are adequate.
50 (4) Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS

1 by reference to agency staff reports, studies or other documents.

- 2
- 3 (f) A mitigated DNS is issued under either WAC 197-11-340(2), requiring a 14-day comment period and
4 public notice, or WAC 197-11-355(5), which may require no additional comment period beyond the
5 comment period on the notice of application.
- 6
- 7 (g) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the
8 permit decision and may be enforced in the same manner as any term or condition of the permit, or
9 enforced in any manner specifically prescribed by the County.
- 10
- 11 (h) If the County's tentative decision on a permit or approval does not include mitigation measures that
12 were incorporated in a mitigated DNS for the proposal, the County should evaluate the threshold
13 determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- 14
- 15 (i) The County's written response under subsection (c) of this section shall not be construed as a
16 determination of significance. In addition, preliminary discussion of clarifications or changes to a
17 proposal, as opposed to a written request for early notice, shall not bind the County to consider the
18 clarifications or changes in its threshold determination.
- 19

20 **Article III. Environmental Impact Statement (EIS)**

21

22 **24.04.130 Adoption by Reference**

23

- 24 (a) This part contains the rules for preparing Environmental Impact Statements (EISs). The County
25 adopts the following Sections by reference, as supplemented by this part:
- 26

27 WAC 197-11-400 Purpose of EIS.
28 WAC 197-11-402 General requirements.
29 WAC 197-11-405 EIS types.
30 WAC 197-11-406 EIS timing.
31 WAC 197-11-408 Scoping.
32 WAC 197-11-410 Expanded scoping.
33 WAC 197-11-420 EIS preparation.
34 WAC 197-11-425 Style and size.
35 WAC 197-11-430 Format.
36 WAC 197-11-435 Cover letter or memo.
37 WAC 197-11-440 EIS contents.
38 WAC 197-11-442 Contents of EIS on nonproject proposals.
39 WAC 197-11-443 EIS contents when prior nonproject EIS.
40 WAC 197-11-444 Elements of the environment.
41 WAC 197-11-448 Relationship of EIS to other considerations.
42 WAC 197-11-450 Cost-benefit analysis.
43 WAC 197-11-455 Issuance of DEIS.
44 WAC 197-11-460 Issuance of FEIS.

45

46 **24.04.140 Preparation of EIS – Additional Considerations**

47

- 48 (a) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is
49 the responsibility of the Grant County Department of Community Development under the direction of
50 the Responsible Official. Before the County issues an EIS, the Responsible Official shall be satisfied

1 that it complies with this Chapter and Chapter 197-11 WAC.

- 2
- 3 (b) The Responsible Official shall determine whether the DEIS and FEIS or draft and final SEIS shall be
4 prepared by County staff, the Applicant, or by a consultant selected by the County or the Applicant. If
5 the Responsible Official requires an EIS for a proposal and determines that someone other than the
6 County will prepare the EIS, the Responsible Official shall notify the Applicant immediately after
7 completion of the threshold determination. The Responsible Official shall also notify the Applicant of
8 the County's procedure for EIS preparation, including approval of the DEIS and FEIS prior to
9 distribution.
- 10
- 11 (c) The County may require an Applicant to provide information the County does not possess, including
12 specific investigations. However, the Applicant is not required to supply information that is not
13 required under this Chapter or that is being requested from another agency. (This does not apply to
14 information the County may request under another ordinance or statute.)
- 15
- 16 (d) In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private
17 applicant, the Responsible Official shall assure that the EIS is prepared in a responsible manner and
18 with appropriate methodology. The Responsible Official shall direct the areas of research and
19 examination to be undertaken, as well as the organization of the resulting document.
- 20

21 **24.04.150 Additional Elements to be covered in an EIS**

- 22
- 23 (a) The following additional elements are part of the environment for the purpose of EIS content, but do
24 not add to the criteria for threshold determinations or perform any other function or purpose under
25 this Chapter:
- 26 (1) Economy.
27 (2) Social policy analysis.
28 (3) Cost-benefit analysis; and
29 (4) Any other element that may be dictated by special circumstances associated with the project.
- 30

31 **Article IV. Public Notice and Commenting**

32

33 **24.04.160 Adoption by Reference**

- 34
- 35 (a) This article contains rules for consulting, commenting, and responding on all environmental
36 documents under SEPA, including rules for public notice and hearings. The County adopts the
37 following sections by reference, as supplement in this part:
- 38

39 WAC 197-11-500 Purpose of this part.
40 WAC 197-11-502 Inviting comment.
41 WAC 197-11-504 Availability and cost of environmental documents.
42 WAC 197-11-508 SEPA register.
43 WAC 197-11-535 Public hearings and meetings.
44 WAC 197-11-545 Effect of no comment.
45 WAC 197-11-550 Specificity of comments.
46 WAC 197-11-560 FEIS response to comments.
47 WAC 197-11-570 Consulted agency costs to assist lead agency.

48
49
50

1 **24.04.170 Public Notice**
2

- 3 (a) Whenever possible, the County shall integrate the public notice required under this Section with
4 existing notice procedures for the County's nonexempt permit(s) or approval(s) required for the
5 proposal.
6
- 7 (b) Whenever Grant County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-
8 360(3) the County shall give public notice as follows:
9 (1) If public notice is required for a non-exempt license, the notice shall state whether a DS or DNS
10 has been issued and when comments are due.
11 (2) If a SEPA document is issued concurrently with the notice of application, the public notice
12 requirements for the notice of application will suffice to meet the SEPA public notice
13 requirements.
14 (3) If no public notice is otherwise required for the permit or approval, the County shall give notice
15 of the DNS or DS by:
16 (A) Publishing notices in a newspaper of general circulation in the County, city, or general area
17 where the proposal is located; and
18 (B) Notifying the news media.
19 (4) Whenever the County issues a DS under WAC 197-11-360(3), the County shall state the scoping
20 procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
21
- 22 (c) If a DNS is issued using the optional DNS process, the public notice requirements for the notice of
23 application as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA
24 public notice requirements.
25
- 26 (d) Whenever the County issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620,
27 notice of the availability of those documents shall be given by:
28 (1) Indicating the availability of the DEIS in any public notice required for a nonexempt license;
29 (2) Publishing notices in a newspaper of general circulation in the County, city, or general area
30 where the proposal is located;
31 (3) Notifying public or private groups that have expressed interest in a certain proposal or in the
32 type of proposal being considered; and
33 (4) Notifying the news media.
34
- 35 (e) The County may require an Applicant to complete the public notice requirements for the Applicant's
36 proposal at his or her expense.
37
- 38 (f) Public notice for projects that qualify as planned actions shall be tied to the underlying permit as
39 specified in WAC 197-11-172(3).
40

41 **24.04.180 Designation of Official to Perform Consulted Agency Responsibilities for the County**
42

- 43 (a) The Responsible Official shall be responsible for preparation of written comments for the County in
44 response to a consultation request prior to a threshold determination, participation in scoping, and
45 reviewing a DEIS.
46
- 47 (b) The Responsible Official shall be responsible for the County's compliance with WAC 197-11-550
48 whenever the County is a consulted agency and is authorized to develop operating procedures that
49 will ensure that responses to consultation requests are prepared in a timely fashion and include data
50 from all appropriate departments of the County.

1 **Article V. Using Existing Environmental Documents**

2
3 **24.04.190 Adoption by Reference**

4
5 (a) This part contains rules for using and supplementing existing environmental documents prepared
6 under SEPA or National Environmental Policy Act (NEPA) for the County's own environmental
7 compliance. The County adopts the following Sections by reference:

- 8
9 WAC 197-11-164 Planned actions--Definition and criteria.
10 WAC 197-11-168 Ordinances or resolutions designating planned actions--Procedures for
11 adoption.
12 WAC 197-11-172 Planned actions--Project review.
13 WAC 197-11-600 When to use existing environmental documents.
14 WAC 197-11-610 Use of NEPA documents.
15 WAC 197-11-620 Supplemental Environmental Impact Statement--Procedures.
16 WAC 197-11-625 Addenda--Procedures.
17 WAC 197-11-630 Adoption--Procedures.
18 WAC 197-11-635 Incorporation by reference--Procedures.
19 WAC 197-11-640 Combining documents.
20

21 **Article VI. SEPA and Agency Decisions**

22
23 **24.04.200 Adoption by Reference**

24
25 (a) This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate
26 or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA
27 determinations to agencies or the courts. The County adopts the following Sections by reference:

- 28
29 WAC 197-11-650 Purpose of this part.
30 WAC 197-11-655 Implementation.
31 WAC 197-11-660 Substantive authority and mitigation.
32 WAC 197-11-680 Appeals.
33

34 **24.04.210 Substantive Authority**

35
36 (a) The policies and goals set forth in this Chapter are supplementary to those in the existing
37 authorization of Grant County.

38
39 (b) The County may attach conditions to a permit or approval for a proposal so long as:
40 (1) Such conditions are necessary to mitigate specific probable adverse environmental impacts
41 identified in environmental documents prepared pursuant to this Chapter;
42 (2) Such conditions are in writing;
43 (3) The mitigation measures included in such conditions are reasonable and capable of being
44 accomplished;
45 (4) The County has considered whether other local, state, or federal mitigation measures applied to
46 the proposal are sufficient to mitigate the identified impacts; and
47 (5) Such conditions are based on one or more policies in subsection (d) of this section and cited in
48 the decision document.

49
50 (c) The County may deny a permit or approval for a proposal on the basis of SEPA so long as:

- 1 (1) A finding is made that approving the proposal would result in probable significant adverse
2 environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this
3 Chapter;
- 4 (2) A finding is made that there are no reasonable mitigation measures capable of being
5 accomplished that are sufficient to mitigate the identified impact; and
- 6 (3) The denial is based on one or more policies identified in Subsection (d) of this Section and
7 identified in writing in the decision document.
- 8
- 9 (d) The County designates and adopts by reference the following policies as the basis for the County's
10 exercise of authority pursuant to this Section:
 - 11 (1) The County shall use all practicable means, consistent with other essential considerations of
12 state policy, to improve and coordinate plans, functions, programs, and resources to the end that
13 the state and its citizens may:
 - 14 (A) Fulfill the responsibilities of each generation as trustee of the environment for succeeding
15 generations;
 - 16 (B) Assure for all people of Washington safe, healthful, productive, and aesthetically and
17 culturally pleasing surroundings;
 - 18 (C) Attain the widest range of beneficial uses of the environment without degradation, risk to
19 health or safety, or other undesirable and unintended consequences;
 - 20 (D) Preserve important historic, cultural, and natural aspects of our national heritage;
 - 21 (E) Maintain, wherever possible, an environment which supports diversity and variety of
22 individual choice;
 - 23 (F) Achieve a balance between population and resource use which will permit high standards
24 of living and a wide sharing of life's amenities; and
 - 25 (G) Enhance the quality of renewable resources and approach the maximum attainable
26 recycling of depletable resources.
 - 27 (2) The County recognizes that each person has a fundamental and inalienable right to a healthful
28 environment and that each person has a responsibility to contribute to the preservation and
29 enhancement of the environment.
 - 30 (3) To assist and give guidance to decisionmakers in establishing base conditions, identifying
31 impacts, mitigating impacts, and approving or denying permits, Grant County designates and
32 adopts by reference the goals, policies and regulations in the following County codes,
33 ordinances, resolutions, and plans as they now exist or are hereafter amended:
 - 34 (A) Growth Management Act Comprehensive Plan, including plan map and technical
35 appendices;
 - 36 (B) Shoreline Master Program;
 - 37 (C) Solid Waste Management Plan;
 - 38 (D) Moderate Risk Waste Management Plan;
 - 39 (E) Capital facility plans;
 - 40 (F) Standards for Road and Bridge Construction;
 - 41 (G) QUAD County Regional Transportation Plan;
 - 42 (H) Title 13, Title 14, Title 22, Title 23, Title 24 and Title 25 of the Grant County Code; and
 - 43 (I) All municipal Ordinances adopted by Grant County pertaining to the development of those
44 lands contained in an Urban Growth Area (under RCW 36.70A.110) from and after the
45 effective date of a County Ordinance adopting such municipal Ordinances.
 - 46 (4) The County further adopts as substantive authority those interlocal agreements that the County
47 has entered into with the individual cities within its jurisdiction. Those interlocal agreements
48 outline the scope and general procedure for joint County-city cooperation.
 - 49
 - 50

- 1 (e) The overriding policy of the County is to mitigate or prevent adverse environmental impacts which
2 may be caused by its actions.
3

4 **24.04.220 Appeals**
5

- 6 (a) Grant County establishes the following administrative appeal procedures under RCW 43.21C.075 and
7 WAC 197-11-680:

- 8 (1) Appeals shall be of the underlying governmental action together with its accompanying
9 environmental determinations. Grant County shall consolidate an appeal of procedural issues
10 made under Chapter 43.21C RCW and Chapter 24.04 (such as a decision to require particular
11 mitigation measures or to deny a proposal) with a hearing or appeal on the underlying
12 governmental action by providing for a single simultaneous hearing before one hearing body to
13 consider the agency decision on a proposal and any environmental determinations made.
14 (2) Any agency or person may appeal the County's procedural compliance with WAC Chapter 197-
15 11. Appeals on SEPA procedures shall be limited to review of a final threshold determination
16 and final EIS, and must be consolidated with an appeal of the underlying project decision.
17 Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scooping, Draft
18 EIS adequacy) shall not be permitted.
19 (3) Grant County shall provide for no more than one administrative appeal of a final threshold
20 determination or of the adequacy of a final EIS. Successive administrative appeals on these
21 issues shall not be allowed.
22 (4) Appeals under this subsection shall be heard by the Board of County Commissioners, or the
23 Hearing Examiner if designated by the Board of County Commissioners, at a public meeting to
24 be scheduled within thirty (30) days of the date the appeal is filed. The County shall provide for
25 a record that shall consist of the following:
26 (A) Findings of fact and conclusions of law;
27 (B) Testimony under oath; and
28 (C) A taped or written transcript.
29 (5) The procedural determination of the Responsible Official shall carry substantial weight in any
30 appeal proceeding.
31 (6) Utilizing the criteria set forth in RCW 43.21C, Chapter 197-11 WAC, and this Chapter, the
32 Board of County Commissioners or Hearing Examiner may affirm or reverse the decision of the
33 Responsible Official or implement the additional information gathering mechanisms of WAC
34 197-11-335. In the event the decision of the Responsible Official is reversed, the Board shall
35 issue its own DS, DNS, or mitigated DNS in accordance with the procedures set forth in WAC
36 197-11 and this Chapter.
37

- 38 (b) Any appeal under this Chapter shall be made within fourteen (14) days after a notice of decision
39 under RCW 36.70B.130 or GCC § 25.04 after notice that the decision has been made and is
40 appealable, by filing a written notice of appeal with the Department setting forth the principal points
41 on which the appeal is based together with the filing fee established under GCC § 24.04.270.
42

- 43 (c) There shall be no separate administrative appeal pursuant to RCW 43.21C.060 of decisions by non-
44 elected officials to condition or deny applications on the basis of SEPA. Administrative appeals of
45 decisions to condition or deny applications of the basis of SEPA shall be consolidated in all cases
46 with administrative appeals, of any provided by state law or County ordinance on the merits of the
47 proposal.
48
49
50

1 **24.04.230 Notice/Statute of Limitations**

- 2
3 (a) The County, Applicant for, or proponent of an action may publish a notice of action pursuant to RCW
4 43.21C.080 for any action.
5
6 (b) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice
7 shall be published by the Clerk of the Board, Applicant or proponent pursuant to RCW 43.21C.080.
8

9 **Article VII. Categorical Exemptions**

10
11 **24.04.240 Adoption by Reference**

- 12
13 (a) The County adopts by reference the following rules for categorical exemptions, as supplemented in
14 this Chapter, including GCC § 24.04.090 (Flexible thresholds), GCC § 24.04.100 (Use of
15 exemptions), and GCC § 24.04.260 (Critical Areas):

16 WAC 197-11-800 Categorical exemptions.

17 WAC 197-11-880 Emergencies.

18 WAC 197-11-890 Petitioning Department of Ecology to change exemptions.
19
20

21 **Article VIII. Agency Compliance**

22
23 **24.04.250 Adoption by Reference**

- 24
25 (a) This part contains rules for agency compliance with SEPA, including rules for charging fees under
26 the SEPA process, designating categorical exemptions that do not apply within critical areas, listing
27 agencies with environmental expertise, selecting the lead agency, and applying these rules to current
28 agency activities. The County adopts the following Sections by reference:
29

30 WAC 197-11-900 Purpose.

31 WAC 197-11-902 Agency SEPA policies.

32 WAC 197-11-916 Application to ongoing actions.

33 WAC 197-11-920 Agencies with environmental expertise.

34 WAC 197-11-922 Lead agency rules.

35 WAC 197-11-924 Determining the lead agency.

36 WAC 197-11-926 Lead agency for governmental proposals.

37 WAC 197-11-928 Lead agency for public and private proposals.

38 WAC 197-11-930 Lead agency for private projects with one agency with jurisdiction.

39 WAC 197-11-932 Lead agency for private projects requiring licenses from more than 10
40 agencies, when one of the agencies is a County/city.

41 WAC 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a
42 County/city, and one or more state agencies.

43 WAC 197-11-936 Lead agency for private projects requiring licenses from more than one state
44 agency.

45 WAC 197-11-938 Lead agencies for specific proposals.

46 WAC 197-11-940 Transfer of lead agency status to a state agency.

47 WAC 197-11-942 Agreements on lead agency status.

48 WAC 197-11-944 Agreements on division of lead agency duties.

49 WAC 197-11-946 DOE resolution of lead agency disputes.

50 WAC 197-11-948 Assumption of lead agency status.

1 **24.04.260 Critical Areas**
2

- 3 (a) The County shall treat proposals located wholly or partially within a critical area or its buffer no
4 differently from other proposals under this Chapter, making a threshold determination for all such
5 proposals. The County shall not automatically require an EIS for a proposal merely because it is
6 proposed for location in a critical area or its buffer.
7
- 8 (b) Critical Areas Exemptions: The categorical exemptions listed under GCC § 24.04.090 and WAC 197-
9 11-800 do not exempt projects from review under the Grant County Critical Areas Ordinance, GCC
10 24.08.
11

12 **24.04.270 Fees**
13

- 14 (a) The County shall require the following fees for its activities in accordance with the provisions of this
15 Chapter:
16 (1) Threshold determination. For every environmental checklist the County will review when it is
17 lead agency, the County shall collect a fee in the amount established by resolution of the Board
18 of County Commissioners from the proponent of the proposal prior to undertaking the threshold
19 determination. The time periods provided by this Chapter for making a threshold determination
20 shall not begin to run until payment of the fee. When the County completes the environmental
21 checklist at the applicant's request or under GCC § 24.04.110, an additional fee in the amount
22 established by resolution of the Board of County Commissioners shall be collected by the
23 Department of Community Development.
24 (2) Environmental Impact Statement.
25 (A) When the County is the lead agency for a proposal requiring an EIS and the Responsible
26 Official determines that the EIS shall be prepared by employees of the County, the County
27 may charge and collect a reasonable fee from any Applicant to cover costs incurred by the
28 County in preparing the EIS. The Responsible Official shall advise the Applicant(s) of the
29 projected costs for the EIS prior to actual preparation; the Applicant shall post bond or
30 otherwise ensure payment of such costs.
31 (B) The Responsible Official may determine that the County will contract directly with a
32 consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some
33 persons or entity other than the County and may bill such costs and expenses directly to the
34 Applicant. The County may require the Applicant to post bond or otherwise ensure
35 payment of such costs. Such consultants shall be selected by mutual agreement of the
36 County and Applicant after a call for proposals.
37 (C) If a proposal is modified so that an EIS is no longer required, the Responsible Official shall
38 refund any fees collected under (A) or (B) of this subsection which remain after incurred
39 costs are paid.
40 (3) For threshold determination appeals pursuant to GCC § 24.04.220, the Department of
41 Community Development shall collect a fee in the amount established by resolution of the Board
42 of County Commissioners from the appellant. An appeal is not considered complete until
43 payment of the fee to the Department. If there is more than one appellant to the same threshold,
44 only one fee shall be collected.
45 (4) The County may collect a reasonable fee in the amount established by resolution of the Board of
46 County Commissioners from an Applicant to cover the cost of meeting the public notice
47 requirements of this Chapter relating to the Applicant's proposal.
48 (5) The County shall not collect a fee for performing its duties as a consulted agency.
49 (6) The County may charge any person for copies of any document prepared under this Chapter, and
50 for mailing the document, in a manner provided by Chapter 42.17 RCW.

Article IX. Forms

24.04.280 Adoption by Reference

(a) The County adopts the following forms and Sections by reference:

- WAC 197-11-960 Environmental checklist.
- WAC 197-11-965 Adoption notices.
- WAC 197-11-970 Determination of Nonsignificance (DNS).
- WAC 197-11-980 Determination of significance and scoping notice (DS).
- WAC 197-11-985 Notice of assumption of lead agency status.
- WAC 197-11-990 Notice of action.