Chapter 197-11 WAC
SEPA RULES
(Formerly chapter 197-10 WAC.)

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

197-11-748 Environmentally sensitive area. [Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-748, filed 2/10/84, effective 4/4/84.] Repealed by 95-07-023 (Order 94-22), filed 3/6/95, effective 4/6/95. Statutory Authority: RCW 43.21C.110.

Reviser's note: Part one subchapter caption has been provided by the code reviser's office.

PART ONE - PURPOSE/AUTHORITY

WAC 197-11-010 Authority. These rules are promulgated under the State Environmental Policy Act (SEPA), chapter 43.21C RCW. RCW 43.21C.110 specifies the content of these rules and grants authority for promulgation. As required in RCW 43.21C.095, these rules shall be given substantial deference in the interpretation of SEPA.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-010, filed 2/10/84, effective 4/4/84. Formerly chapter 197-10 WAC.]

WAC 197-11-020 Purpose. (1) The purpose of these rules is to establish uniform requirements for compliance with SEPA. Each agency must have its own SEPA procedures consistent with these statewide rules. The effective date of these rules is stated in WAC 197-11-955.

(2) These rules replace the previous guidelines in chapter 197-10 WAC.

(3) The provisions of these rules and the act must be read together as a whole in order to comply with the spirit and letter of the law.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-020, filed 2/10/84, effective 4/4/84.]

WAC 197-11-030 Policy. (1) The policies and goals set forth in SEPA are supplementary to existing agency authority.

(2) Agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and laws of the state of Washington in accordance with the policies set forth in SEPA and these rules.

(b) Find ways to make the SEPA process more useful to decisionmakers and the public; promote certainty regarding the requirements of the act; reduce paperwork and the accumulation of extraneous background data; and emphasize important environmental impacts and alternatives.

(c) Prepare environmental documents that are concise, clear, and to the point, and are supported by evidence that the necessary environmental analyses have been made.

(d) Initiate the SEPA process early in conjunction with other agency operations to avoid delay and duplication.

(e) Integrate the requirements of SEPA with existing agency planning and licensing procedures and practices, so that such procedures run concurrently rather than consecutively.

(f) Encourage public involvement in decisions that significantly affect environmental quality.

(g) Identify, evaluate, and require or implement, where required by the act and these rules, reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-030, filed 2/10/84, effective 4/4/84.]

PART TWO - GENERAL REQUIREMENTS

WAC 197-11-040 Definitions. The terms used in these rules are explained in Part Eight, Definitions, WAC 197-11-700 to 197-11-799. This terminology shall be uniform throughout the state as applied to SEPA, chapter 43.21C RCW. References in these rules to WAC 197-11 refer to chapter WAC 197-11 of the Washington Administrative Code (chapter 197-11 WAC).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-040, filed 2/10/84, effective 4/4/84.]

WAC 197-11-050 Lead agency. (1) A lead agency shall be designated when an agency is developing or is presented with a proposal, following the rules beginning at WAC 197-11-922.

(2) The lead agency shall be the agency with main responsibility for complying with SEPA's procedural requirements and shall be the only agency responsible for:

(a) The threshold determination; and

(b) Preparation and content of environmental impact statements.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-050, filed 2/10/84, effective 4/4/84.]

WAC 197-11-055 Timing of the SEPA process. (1) **Integrating SEPA and agency activities.** The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

(2) **Timing of review of proposals.** The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal *and* the environmental effects can be meaningfully evaluated.

(i) The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

(ii) Preliminary steps or decisions are sometimes needed before an action is sufficiently definite to allow meaningful environmental analysis.

(b) Agencies shall identify the times at which the environmental review shall be conducted either in their procedures or on a case-by-case basis. Agencies may also organize environmental review in phases, as specified in WAC 197-11-060(5).

(c) Appropriate consideration of environmental information shall be completed before an agency commits to a particular course of action (WAC 197-11-070).

(d) A GMA county/city is subject to additional timing requirements (see WAC 197-11-310).

(3) **Applications and rule making.** The timing of environmental review for applications and for rule making shall be as follows:

(a) At the latest, the lead agency shall begin environmental review, if required, when an application is complete. The lead agency may initiate review earlier and may have informal conferences with applicants. A final threshold determination or FEIS shall normally precede or accompany the final staff recommendation, if any, in a quasi-judicial proceeding on an application. Agency procedures shall specify the type and timing of environmental documents that shall be submitted to planning commissions and similar advisory bodies (WAC 197-11-906).

(b) For rule making, the DNS or DEIS shall normally accompany the proposed rule. An FEIS, if any, shall be issued at least seven days before adoption of a final rule (WAC 197-11-460(4)).

(4) **Applicant review at conceptual stage.** In general, agencies should adopt procedures for environmental review and for preparation of EISs on private proposals at the conceptual stage rather than the final detailed design stage.

(a) If an agency's only action is a decision on a building permit or other license that requires detailed project plans and specifications, agencies shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.

(b) Agencies may specify the amount of detail needed from applicants for such early environmental review, consistent with WAC 197-11-100 and 197-11-335, in their SEPA or permit procedures.

(c) This subsection does not preclude agencies or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.

(5) An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal, they should coordinate their SEPA processes wherever possible. The agencies shall comply with lead agency determination requirements in WAC 197-11-050 and 197-11-922.

(6) To meet the requirement to insure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.

(7) For their own public proposals, lead agencies may extend the time limits prescribed in these rules.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-055, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-055, filed 2/10/84, effective 4/4/84.]

WAC 197-11-060 Content of environmental review. (1) Environmental review consists of the range of proposed activities, alternatives, and impacts to be analyzed in an environmental document, in accordance with SEPA's goals and

policies. This section specifies the content of environmental review common to *all* environmental documents required under SEPA.

(2) The content of environmental review:

(a) Depends on each particular proposal, on an agency's existing planning and decision-making processes, and on the time when alternatives and impacts can be most meaningfully evaluated;

(b) For the purpose of deciding whether an EIS is required, is specified in the environmental checklist, in WAC 197-11-330 and 197-11-444;

(c) For an environmental impact statement, is considered its "scope" (WAC 197-11-792 and Part Four of these rules);

(d) For any supplemental environmental review, is specified in Part Six.

(3) **Proposals.**

(a) Agencies shall make certain that the proposal that is the subject of environmental review is properly defined.

(i) Proposals include public projects or proposals by agencies, proposals by applicants, if any, and proposed actions and regulatory decisions of agencies in response to proposals by applicants.

(ii) A proposal by a lead agency or applicant may be put forward as an objective, as several alternative means of accomplishing a goal, or as a particular or preferred course of action.

(iii) Proposals should be described in ways that encourage considering and comparing alternatives. Agencies are encouraged to describe public or nonproject proposals in terms of objectives rather than preferred solutions. A proposal could be described, for example, as "reducing flood damage and achieving better flood control by one or a combination of the following means: Building a new dam; maintenance dredging; use of shoreline and land use controls; purchase of floodprone areas; or relocation assistance."

(b) Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection (5).) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

(i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or

(ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

(c) **(Optional)** Agencies may wish to analyze "similar actions" in a single environmental document.

(i) Proposals are similar if, when viewed with other reasonably foreseeable actions, they have common aspects that provide a basis for evaluating their environmental consequences together, such as common timing, types of impacts, alternatives, or geography. This section does not require agencies or applicants to analyze similar actions in a single environmental document or require applicants to prepare environmental documents on proposals other than their own.

(ii) When preparing environmental documents on similar actions, agencies may find it useful to define the proposals in one of the following ways: (A) Geographically, which may include actions occurring in the same general location, such as a body of water, region, or metropolitan area; or (B) generically, which may include actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, environmental media, or subject matter.

(4) **Impacts.**

(a) SEPA's procedural provisions require the consideration of "environmental" impacts (see definition of "environment" in WAC 197-11-740 and of "impacts" in WAC 197-11-752), with attention to impacts that are likely, not merely speculative. (See definition of "probable" in WAC 197-11-782 and 197-11-080 on incomplete or unavailable information.)

(b) In assessing the significance of an impact, a lead agency shall not limit its consideration of a proposal's impacts only to those aspects within its jurisdiction, including local or state boundaries (see WAC 197-11-330(3) also).

(c) Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.

(d) A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions. For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.

(e) The range of impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts, WAC 197-11-792) may be wider than the impacts for which mitigation measures are required of applicants (WAC 197-11-660). This will depend upon the specific impacts, the extent to which the adverse impacts are attributable to the applicant's proposal, and the capability of applicants or agencies to control the impacts in each situation.

(5) **Phased review.**

(a) Lead agencies shall determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decision-making processes. (See WAC 197-11-055 on timing of environmental review.)

(b) Environmental review may be phased. If used, phased review assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Broader environmental documents may be followed by narrower documents, for example, that incorporate prior general discussion by reference and concentrate solely on the issues specific to that phase of the proposal.

(c) Phased review is appropriate when:

(i) The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis (see, for example, WAC 197-11-443); or

(ii) The sequence is from an environmental document on a specific proposal at an early stage (such as need and site selection) to a subsequent environmental document at a later stage (such as sensitive design impacts).

(d) Phased review is not appropriate when:

(i) The sequence is from a narrow project document to a broad policy document;

(ii) It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or

(iii) It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under WAC 197-11-060 (3)(b) or 197-11-305(1); however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.

(e) When a lead agency knows it is using phased review, it shall so state in its environmental document.

(f) Agencies shall use the environmental checklist, scoping process, nonproject EISs, incorporation by reference, adoption, and supplemental EISs, and addenda, as appropriate, to avoid duplication and excess paperwork.

(g) Where proposals are related to a large existing or planned network, such as highways, streets, pipelines, or utility lines or systems, the lead agency may analyze in detail the overall network as the present proposal or may select some of the future elements for present detailed consideration. Any phased review shall be logical in relation to the design of the overall system or network, and shall be consistent with this section and WAC 197-11-070.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-060, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-060, filed 2/10/84, effective 4/4/84.]

WAC 197-11-070 Limitations on actions during SEPA process. (1) Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would:

(a) Have an adverse environmental impact; or

(b) Limit the choice of reasonable alternatives.

(2) In addition, certain DNSs require a fourteen-day period prior to agency action (WAC 197-11-340(2)), and FEISs require a seven-day period prior to agency action (WAC 197-11-460(4)).

(3) In preparing environmental documents, there may be a need to conduct studies that may cause nonsignificant environmental impacts. If such activity is not exempt under WAC 197-11-800(17), the activity may nonetheless proceed if a checklist is prepared and appropriate mitigation measures taken.

(4) This section does not preclude developing plans or designs, issuing requests for proposals (RFPs), securing options, or performing other work necessary to develop an application for a proposal, as long as such activities are consistent with subsection (1).

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-070, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-070, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-070, filed 2/10/84, effective 4/4/84.]

WAC 197-11-080 Incomplete or unavailable information. (1) If information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents.

(2) When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists.

(3) Agencies may proceed in the absence of vital information as follows:

(a) If information relevant to adverse impacts is essential to a reasoned choice among alternatives, but is not known, and the costs of obtaining it are exorbitant; or

(b) If information relevant to adverse impacts is important to the decision and the means to obtain it are speculative or not known;

Then the agency shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty. If the agency proceeds, it shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.

(4) Agencies may rely upon applicants to provide information as allowed in WAC 197-11-100.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-080, filed 2/10/84, effective 4/4/84.]

WAC 197-11-090 Supporting documents. If an agency prepares background or supporting analyses, studies, or technical reports, such material shall be considered part of the agency's record of compliance with SEPA, as long as the preparation and circulation of such material complies with the requirements in these rules for incorporation by reference and the use of supporting documents.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-090, filed 2/10/84, effective 4/4/84.]

WAC 197-11-100 Information required of applicants. Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required. An applicant may, at any time, voluntarily submit information beyond that required under these rules. An agency is allowed to require information from an applicant in the following areas:

(1) **Environmental checklist.** An applicant may be required to complete the environmental checklist in WAC 197-11-960 in connection with filing an application (see WAC 197-11-315). Additional information may be required at an applicant's expense, but not until after initial agency review of the checklist (WAC 197-11-315 and 197-11-335).

(2) **Threshold determination.** Any additional information required by an agency after its initial review of the checklist shall be limited to those elements on the checklist for which the lead agency has determined that information accessible to the agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. The lead agency may require field investigations or research by the applicant reasonably related to determining a proposal's environmental impacts (WAC 197-11-335). An applicant may clarify or revise the checklist at any time prior to a threshold

determination. Revision of a checklist after a threshold determination is issued shall be made under WAC 197-11-340 or 197-11-360.

(3) **Environmental impact statements.** The responsible official may require an applicant to provide relevant information that is not in the possession of the lead agency. Although an agency may include additional analysis not required under SEPA in an EIS (WAC 197-11-440(8), 197-11-448(4) and 197-11-640), the agency shall not require the applicant to furnish such information, under these rules. An applicant shall not be required to provide information requested of a consulted agency until the agency has responded or the time allowed for the consulted agency's response has elapsed, whichever is earlier. Preparation of an EIS by the applicant is in WAC 197-11-420.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-100, filed 2/10/84, effective 4/4/84.]

WAC 197-11-158 GMA project review—Reliance on existing plans, laws, and regulations. (1) In reviewing the environmental impacts of a project and making a threshold determination, a GMA county/city may, at its option, determine that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city's development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project.

(2) In making the determination under subsection (1) of this section, the GMA county/city shall:

(a) Review the environmental checklist and other information about the project;

(b) Identify the specific probable adverse environmental impacts of the project and determine whether the impacts have been:

(i) Identified in the comprehensive plan, subarea plan, or applicable development regulations through the planning and environmental review process under chapter 36.70A RCW or this chapter, or in other local, state, or federal rules or laws; and

(ii) Adequately addressed in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws by:

(A) Avoiding or otherwise mitigating the impacts; or

(B) The legislative body of the GMA county/city designating as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW;

(c) Base or condition approval of the project on compliance with the requirements or mitigation measures in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws; and

(d) Place the following statement in the threshold determination if all of a project's impacts are addressed by other applicable laws and no conditions will be required under SEPA: "The lead agency has determined that the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, as provided by RCW 43.21C.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA."

(3) Project specific impacts that have not been adequately addressed as described in subsection (2) of this section might be probable significant adverse environmental impacts requiring additional environmental review. Examples of project specific impacts that may not have been adequately addressed include, but are not limited to, impacts resulting from changed conditions, impacts indicated by new information, impacts not reasonably foreseeable in the GMA planning process, or impacts specifically reserved in a plan EIS for project review.

(4) In deciding whether a project specific adverse environmental impact has been adequately addressed by an existing rule or law of another agency with jurisdiction, the GMA county/city shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the GMA county/city shall base or condition its project approval on compliance with these other existing rules or laws.

(5) If a GMA county/city's comprehensive plan, subarea plan, or development regulations adequately address some or all of a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the GMA county/city shall not require additional mitigation under this chapter for those impacts.

(6) In making the determination in subsection (1) of this section, nothing in this section requires review of the adequacy of the environmental analysis associated with the comprehensive plans and development regulations that are being relied upon to make that determination.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-158, filed 10/10/97, effective 11/10/97.]

WAC 197-11-164 Planned actions—Definition and criteria. (1) Under RCW 43.21C.031, GMA counties/cities may designate a planned action. A planned action means one or more types of project action that:

(a) Are designated planned actions by an ordinance or resolution adopted by a GMA county/city;

(b) Have had the significant environmental impacts adequately addressed in an EIS prepared in conjunction with:

(i) A comprehensive plan or subarea plan adopted under chapter 36.70A RCW; or

(ii) A fully contained community, a master planned resort, a master planned development, or a phased project;

(c) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;

(d) Are located within an urban growth area, as defined in RCW 36.70A.030, or are located within a master planned resort;

(e) Are not essential public facilities, as defined in RCW 36.70A.200; and

(f) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(2) A GMA county/city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the GMA county/city.

(3) A GMA county/city may limit a planned action to a time period identified in the EIS or the designating ordinance or resolution adopted under WAC 197-11-168.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-164, filed 10/10/97, effective 11/10/97.]

WAC 197-11-168 Ordinances or resolutions designating planned actions—Procedures for adoption. (1) If a GMA county/city chooses to designate a planned action, the planned action must be designated by ordinance or resolution. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting the ordinance or resolution.

(2) The ordinance or resolution:

(a) Shall describe the type(s) of project action being designated as a planned action;

(b) Shall describe how the planned action meets the criteria in WAC 197-11-164 (including specific reference to the EIS that addresses any significant environmental impacts of the planned action);

(c) Shall include a finding that the environmental impacts of the planned action have been identified and adequately addressed in the EIS, subject to project review under WAC 197-11-172; and

(d) Should identify any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as the planned action.

(3) If the GMA county/city has not limited the planned action to a specific time period identified in the EIS, it may do so in the ordinance or resolution designating the planned action.

(4) The GMA county/city is encouraged to provide a periodic review and update procedure for the planned action to monitor implementation and consider changes as warranted.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-168, filed 10/10/97, effective 11/10/97.]

WAC 197-11-172 Planned actions—Project review. (1) Review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. A project proposed as a planned action must qualify as the planned action designated in the planned action ordinance or resolution, and must meet the statutory criteria for a planned action in RCW 43.21C.031. Planned action project review shall include:

(a) Verification that the project meets the description in, and will implement any applicable conditions or mitigation measures identified in, the designating ordinance or resolution; and

(b) Verification that the probable significant adverse environmental impacts of the project have been adequately addressed in the EIS prepared under WAC 197-11-164 (1)(b) through review of an environmental checklist or other project review form as specified in WAC 197-11-315, filed with the project application.

(2)(a) If the project meets the requirements of subsection (1) of this section, the project shall qualify as the planned action designated by the GMA county/city, and a project threshold determination or EIS is not required. Nothing in this section limits a GMA county/city from using this chapter or other applicable law to place conditions on the project in order to mitigate nonsignificant impacts through the normal local project review and permitting process.

(b) If the project does not meet the requirements of subsection (1) of this section, the project is not a planned action and a threshold determination is required. In conducting the additional environmental review under this chapter, the lead agency may use information in existing environmental documents, including the EIS used to designate the planned action (refer to WAC 197-11-330 (2)(a) and 197-11-600 through 197-11-635). If an EIS or SEIS is prepared on the proposed project, its scope is limited to those probable significant adverse environmental impacts that were not adequately addressed in the EIS used to designate the planned action.

(3) Public notice for projects that qualify as planned actions shall be tied to the underlying permit. If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a planned action. If notice is not otherwise required for the underlying permit, no special notice is required. However, the GMA county/city is encouraged to provide some form of public notice as deemed appropriate.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-172, filed 10/10/97, effective 11/10/97.]

WAC 197-11-210 SEPA/GMA integration. (1) The purpose of WAC 197-11-210 through 197-11-235 is to authorize GMA counties/cities to integrate the requirements of SEPA and the Growth Management Act (GMA) to ensure that environmental analyses under SEPA can occur concurrently with and as an integral part of the planning and decision making under GMA. Nothing in these sections is intended to jeopardize the adequacy or require the revision of any SEPA or GMA processes, analyses or document deadlines specified in GMA.

(2) GMA counties/cities may use the procedures of these rules to satisfy the requirements of SEPA for GMA actions. Other jurisdictions planning under GMA may also use these integration procedures.

(3) Environmental analysis at each stage of the GMA planning process should, at a minimum, address the environmental impacts associated with planning decisions at that stage of the planning process. Impacts associated with later planning stages may also be addressed. Environmental analysis that analyzes environmental impacts in the GMA planning process can:

(a) Result in better-informed GMA planning decisions;

(b) Avoid delays, duplication and paperwork in project-level environmental analysis; and

(c) Narrow the scope of environmental review and mitigation under SEPA at the project level.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-210, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-210, filed 3/6/95, effective 4/6/95.]

WAC 197-11-220 SEPA/GMA definitions. For purposes of SEPA:

(1) "Formal SEPA documents" mean:

(a) A nonproject environmental checklist/DNS;

(b) A notice of adoption with or without an addendum;

(c) An addendum;

(d) An EIS; or

(e) An integrated GMA document.

(2) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(3) "Proposed GMA action" means a proposal for a GMA action that has been issued for public and interagency comment. It does not include drafts, preliminary drafts, or other materials or processes that have been used to develop GMA documents or elements of GMA documents. Such drafts are not considered a "proposal" as defined in WAC 197-11-784.

(4) "GMA action" means policies, plans and regulations adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include preliminary determinations on the scope and content of GMA actions, appeals of GMA actions, actions by the governor or by the growth management hearings boards.

(5) "Integrated GMA document" means a GMA document which contains or combines environmental analysis under SEPA.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-220, filed 3/6/95, effective 4/6/95.]

WAC 197-11-228 Overall SEPA/GMA integration procedures. (1) "Joint process." GMA jurisdictions are authorized to combine SEPA and GMA processes and analyses and to issue combined documents.

(2) "Phasing and level of detail." To integrate SEPA and GMA:

(a) The appropriate scope and level of detail of environmental review should be tailored to the GMA action being developed or considered for adoption.

(b) Jurisdictions may modify SEPA phased review as necessary to track the phasing of GMA actions, as provided in GMA and the procedural criteria in chapter 365-195 WAC. (For example, actions of narrower scope, such as interim urban growth boundaries or interim development regulations, subarea plans, and plan elements may be adopted prior to GMA actions of broader scope, such as an overall comprehensive plan revision.)

(c) The process of integrating SEPA and GMA should begin at the early stages of plan development. One purpose of an integrated GMA document (see WAC 197-11-235) is to ensure that studies conducted early in the planning and environmental analysis process are available and useful throughout the planning and analysis process (see WAC 197-11-230(2) and 197-11-235). Although early planning documents and environmental analyses such as documents on concepts or plan elements, may serve specific purposes and are not each required to be comprehensive in scope, they should explain their relationship to the overall GMA/SEPA process that is underway and identify how cumulative impacts are being considered.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-228, filed 3/6/95, effective 4/6/95.]

WAC 197-11-230 Timing of an integrated GMA/SEPA process. (1) A formal SEPA document (which may be a draft integrated GMA document under WAC 197-11-235):

(a) Shall be prepared and issued no later than the time that a proposed GMA action is issued for public and interagency review. For comprehensive plans and development regulations, the date of issue shall be at least sixty days prior to final adoption under RCW 36.70A.106;

(b) Shall be provided:

(i) To the legislative body that will consider issuing a GMA action; and

(ii) To any advisory body designated by the local legislative body or chief executive of the city or county to make a formal recommendation to the local legislative body on whether to propose a GMA action. The draft document shall also be circulated as otherwise required by WAC 197-11-455 or 197-11-340 as appropriate.

(2) The responsible official shall make a SEPA threshold determination:

(a) At any time, as long as it is early enough in the process so that the appropriate environmental document can accompany or be combined with a proposed GMA action;

(b) As soon as it can be determined under WAC 197-11-330 that a significant adverse environmental impact is likely to result from the implementation of the GMA action being developed.

(3) A threshold determination is not required when there has been a previous threshold determination or a notice of adoption or an addendum is prepared, except when a new threshold determination is required pursuant to WAC 197-11-600(3).

(4) If a formal SEPA document is issued concurrently with a proposed GMA action which has a public comment period, the public comment period on the formal SEPA document shall be the same as the comment period on the GMA action, provided the comment period is not less than otherwise required of a SEPA document. (See WAC 197-11-340 (2)(c) and 197-11-455(6).)

(5) When a draft integration GMA document includes a draft EIS, the final EIS and the adoption of the GMA document may occur together, notwithstanding the requirements of WAC 197-11-460(5).

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-230, filed 3/6/95, effective 4/6/95.]

WAC 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping. (1) "Preliminary environmental analyses." GMA jurisdictions may prepare environmental analyses for use by decision makers and the public to assist in developing and reviewing preliminary drafts of GMA documents. Environmental analyses prepared for use in such preliminary GMA planning:

(a) Do not require a threshold determination;

(b) May be separate from, or woven into, issue papers or other agency planning materials or presentations;

(c) May use the format of SEPA documents, including a nonproject environmental checklist (Part D of WAC 197-11-960) or addendum (WAC 197-11-706, 197-11-625).

(d) May include evaluation of issues and concerns that are not required in SEPA documents, such as economic or other factors identified in GMA, SEPA, and WAC 197-11-448.

(2) "Expanded scoping."

(a) Timing and use. Expanded scoping may be used prior to a threshold determination to meet one or more of the purposes stated in WAC 197-11-030, 197-11-225, 197-11-230, 197-11-235 and 197-11-410(2). Expanded scoping may initiate or be combined with any early GMA planning activities such as "visioning," development of alternative concepts or elements, or scoping of possible GMA actions. Scoping under WAC 197-11-408 may also be used for these purposes if a determination of significance has been issued.

(b) Notice. An expanded scoping notice may be issued separately from or without a threshold determination. If so the notice should explain that SEPA determinations and documents will occur later and that scoping is starting early to assist and involve the public, tribes and agencies in formulating a specific proposed GMA action and identifying useful environmental analyses.

(c) If expanded scoping is used as provided in this section, additional scoping will be optional if a determination of significance is subsequently issued.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-232, filed 3/6/95, effective 4/6/95.]

WAC 197-11-235 Documents. (1) "Integrating documents." Formal SEPA documents may be prepared as companion documents to accompany proposed GMA actions or may be integrated into the documentation of GMA actions. This section clarifies how WAC 197-11-640 (all SEPA documents) and WAC 197-11-425 through 197-11-442 (EISs) apply to integrated SEPA/GMA documents. The overriding consideration is the quality of information and analysis at the appropriate scope and level of detail for the particular GMA document, and not the format, length or bulk of the document.

(2) "Document format."

(a) There is no standard format for an integrated GMA document. For example an integrated comprehensive plan may look more like a plan preceded by an environmental summary (see WAC 197-11-235(5)), in contrast to a format described in WAC 197-11-430. Any separately bound supporting documents shall be clearly identified in the integrated document.

(b) An integrated GMA document is not required to contain a separate section on affected environment, significant impacts, and mitigation measures under WAC 197-11-440(6), as long as this information is summarized as required by this section, and the basis for this information can be readily found in the document and the supporting record.

(3) "Integrated non-EIS documents."

(a) If a proposed GMA action is not likely to have a significant adverse environmental impact, an integrated GMA document shall be prepared that combines the formal SEPA document (such as an environmental checklist/DNS, a notice of adoption or addendum) with the GMA document. The provisions of WAC 197-11-235 (1) and (2) apply to these integrated documents.

(b) If an environmental checklist is used and a DNS issued, only Parts A (which serves as a fact sheet), C (responsible official's signature), and D (nonproject checklist) need be prepared, plus an environmental summary as specified in WAC 197-11-235(5). Part D and the summary may be combined.

(c) If an addendum is to accompany or be incorporated into an integrated GMA document, it shall contain the information specified in WAC 197-11-235(5) for an environmental summary.

(4) "Plan/EIS documents." Because these documents need to contain sufficient environmental analysis for GMA actions, the same documents that meet GMA planning needs should constitute the SEPA documents for GMA actions and should provide a basis for future decisions on projects. An integrated document will constitute the necessary formal SEPA document, if accompanied by the following (as further specified by subsections (5) through (7) of this section):

(a) Environmental summary and fact sheet;

(b) Concise analysis of alternatives;

(c) Comments and responses; and

(d) Appropriate technical and other materials.

(5) "Environmental summary and fact sheet."

(a) The environmental summary includes the contents required in WAC 197-11-440(4). It should emphasize the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made and the effectiveness of mitigation measures. The summary is not to be a summary of the GMA action.

(b) The summary should highlight from an environmental perspective the main options that would be preserved or foreclosed by the proposed GMA action. It should reflect SEPA's substantive policies and focus on any significant irreversible or irretrievable commitments of natural resources that would be likely to harm long-term environmental productivity, taking into account cumulative impacts. A summary of the principal environmental impacts may be presented in chart or matrix form, summarizing the relevant elements of the environment and impact assessment required by WAC 197-11-440 (6)(b) through (e). The summary may discuss nonenvironmental factors and should do so if relevant to resolving issues concerning the main environmental choices facing decision makers.

(c) The summary should be no longer than necessary (generally fifteen to thirty pages for a plan/EIS, less for other integrated documents) and include tables or graphics to assist readability.

(d) At a minimum the fact sheet shall contain the information required in WAC 197-11-440(2). The fact sheet shall precede the summary in the integrated GMA document.

(6) "Concise analysis of alternatives."

(a) This analysis focuses on a comparative evaluation of the environmental consequences of the principal alternative courses of action that are or have been under consideration in the GMA planning process, as provided by WAC 197-11-440(5). The alternatives analysis shall evaluate the proposed GMA action compared to the principal alternative concepts and plan elements or regulatory options that were considered. This analysis allows decision makers, other agencies and the public to determine if the proposed GMA action can or

should be revised before adoption to avoid or reduce environmental or other impacts. These alternatives may be:

(i) Those which are actively being considered; or

(ii) Those considered and screened earlier as part of a public GMA planning process.

(b) Descriptive material on the features of the alternatives (in contrast to comparing their impacts) should be kept to the minimum necessary to understand the comparative evaluation. If more description is necessary, it should be cited or located in the supporting record. Depending on the scope of the GMA action, the text of the alternatives analysis should be less than forty pages.

(7) "Comments and responses." The inclusion of comments and responses is not required for a draft integrated GMA document. For a final integrated document, comments (or a summary of comments) shall be compiled and response prepared as provided in WAC 197-11-560(3). A jurisdiction may include comments (or a summary of comments) received during the scoping process or on preliminary documents, as well as general or specific responses to these comments if any have been prepared, with the integrated GMA document on a proposed GMA action. If this approach is not used, these preliminary comments shall be included in the supporting record.

(8) "Supporting record, analyses, and materials."

(a) The integrated GMA document shall contain a list of the principal analytical documents and other materials (such as meeting minutes, maps, models, tapes or videos) that have been prepared, received, or used in developing the GMA action (see WAC 197-11-090). These materials shall be considered to be incorporated by reference under SEPA and part of the supporting record for SEPA compliance, and their contents need not be further described as required in WAC 197-11-635. Annotated lists are encouraged, but not required, to assist current and future reviewers.

(b) Materials in the supporting record should enable agencies and members of the public to identify and review the planning basis for the conclusions and analysis presented in the integrated GMA document as provided in the "procedural criteria" for preparing plan documents.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-235, filed 3/6/95, effective 4/6/95.]

WAC 197-11-238 Monitoring. Monitoring information is important to maintain the usefulness of the environmental analysis in plans and development regulations for project-level review and to update plans under chapter 36.70A RCW. GMA counties/cities are encouraged to establish a process for monitoring the cumulative impacts of permit decisions and conditions, and to use that data to update the information about existing conditions for the built and natural environment. If a monitoring process is developed, it should be established at the time information on existing conditions is developed. Annual or periodic reports summarizing the data and documenting trends are encouraged.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-238, filed 10/10/97, effective 11/10/97.]

WAC 197-11-250 SEPA/Model Toxics Control Act integration. (1) WAC 197-11-253 through 197-11-268 integrate the procedural requirements and documents of this chapter with those required under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, and chapter 173-340 WAC.

(2) Both MTCA and SEPA provide opportunities for early public review of a proposal. The following sections contain procedures to combine the MTCA and SEPA processes to reduce duplication and improve public participation. These sections supplement the other requirements of this chapter. To the extent there is a conflict, these sections supersede any conflicting provisions of this chapter.

(3) WAC 197-11-253 through 197-11-268 apply to remedial actions as defined in RCW 70.105D.020(12) and conducted by ecology or by a potentially liable person (PLP) under an order, agreed order, or consent decree under MTCA. These sections do not apply to independent remedial actions; rather, the remainder of this chapter applies to independent remedial actions that are subject to SEPA.

(4) When the remedial action is part of a development proposal, the procedures in WAC 197-11-256 through 197-11-268 shall be used to combine the procedural requirements of SEPA and MTCA, to the extent practicable.

(5) To effectively integrate the procedural requirements of SEPA and MTCA, the SEPA elements of the environment that could be impacted need to be identified as early in the MTCA process as possible. Early consideration of SEPA facilitates identification of study areas prior to conducting the remedial investigation/feasibility study (RI/FS) and effective, timely integration of SEPA and MTCA documents. The threshold determination may be delayed until later in the MTCA process.

(6) WAC 197-11-256 through 197-11-268 do not change the categorical exemption for information collection in WAC 197-11-800(17) or the emergency exemption in WAC 197-11-880.

(7) Interim actions (WAC 173-340-430) conducted as part of a remedial action conducted by ecology, or by a potentially liable person under an order, agreed order, or consent decree under MTCA are governed by WAC 197-11-268.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-250, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-250, filed 3/31/95, effective 5/1/95.]

WAC 197-11-253 SEPA lead agency for MTCA actions. (1) The lead agency should be determined as soon as possible after ecology has identified the PLPs for a facility and must be identified prior to issuing an order, agreed order, or consent decree, or prior to issuing the scope of work for an ecology conducted remedial action.

(2) Ecology will be lead agency for any remedial action conducted by ecology, or by a PLP under an order, agreed order, or consent decree, except for the situations described in subsections (3) and (4) of this section.

(3) Except as provided in subsection (4) of this section, an agency that will be conducting a remedial action under a MTCA order, agreed order, or consent decree will be lead agency provided there is no objection by another agency determined by ecology to be a PLP for the facility.

(a) If there are multiple agency PLPs, the agencies shall by agreement determine which agency will be lead agency. If

the agencies cannot reach agreement, the agency that owns the largest acreage within the facility shall be lead agency. In any other instance where the agencies cannot agree, ecology will be lead agency.

(b) Prior to making a threshold determination, the lead agency may:

(i) Transfer lead agency status to ecology;

(ii) Invite ecology to share lead agency status; or

(iii) Retain lead agency status.

(4) When a remedial action is part of a development proposal, the lead agency will be determined using the lead agency criteria in WAC 197-11-922 through 197-11-946. The lead agency may contact ecology prior to making a threshold determination to invite ecology to share lead agency status for that portion of the environmental analysis related to the remedial action (WAC 197-11-944).

(5) If an agency other than ecology is lead agency, the lead agency shall provide ecology an opportunity to review the environmental documents prior to providing public notice of the documents. Any environmental documents must address the remedial action which ecology anticipates will be necessary for the facility.

(6) When an agency other than ecology is lead agency, and the SEPA and MTCA documents are issued together with one public comment period, ecology and the lead agency will by agreement decide who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-253, filed 3/31/95, effective 5/1/95.]

WAC 197-11-256 Preliminary evaluation. (1) Prior to conducting a RI/FS under MTCA (WAC 173-340-350), the lead agency shall evaluate the available information on the hazardous substances at the facility and take one of the following steps:

(a) Make a preliminary decision that the remedial action is unlikely to have a probable significant adverse environmental impact and proceed according to WAC 197-11-259.

(b) Decide that all or part of the remedial action or its impacts are not sufficiently definite to make a preliminary determination and proceed with early scoping prior to making a threshold determination, following the procedures in WAC 197-11-265.

(c) Decide the remedial action will have a probable significant adverse environmental impact and issue a determination of significance following the procedures in WAC 197-11-262.

(2) The threshold determination shall be made at the point at which adequate information is available to evaluate the environmental impacts of the remedial action, but no later than the draft cleanup action plan.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-256, filed 3/31/95, effective 5/1/95.]

WAC 197-11-259 Determination of nonsignificance for MTCA remedial action. (1) If the remedial action will not have a probable significant adverse environmental impact, a DNS shall be issued no earlier than the RI/FS and no later than the draft cleanup action plan. If the lead agency made a preliminary decision under WAC 197-11-256 (1)(a) that a DS was unlikely, prior to issuing a DNS the responsible official shall consider any additional information about adverse environmental impacts generated during the RI/FS process.

(2) The public comment period on the DNS shall be the same as the comment period on the MTCA document, provided that for proposals listed in WAC 197-11-340 (2)(a) the comment period is no less than fourteen days prior to the effective date of the MTCA document. One public notice shall be used to announce the availability of both the DNS and MTCA document, consistent with the requirements of WAC 173-340-600 and 197-11-340.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-259, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-259, filed 3/31/95, effective 5/1/95.]

WAC 197-11-262 Determination of significance and EIS for MTCA remedial actions. (1) The following applies to remedial actions that will have a probable significant adverse environmental impact.

(2) If the preliminary evaluation in WAC 197-11-256 results in a determination of significance, the scoping notice may be combined with either the MTCA public review process for the scope of work for an ecology conducted RI/FS (WAC 173-340-600 (12)(a)), or with the public review process for the order, consent decree or agreed order covering an RI/FS.

(3) If a determination of significance is issued later in the MTCA process and early scoping has been done under WAC 197-11-265, no additional SEPA scoping is required. If early scoping has not been done, scoping shall be completed consistent with WAC 197-11-408 or 197-11-410.

(4) The EIS may be integrated with the RI/FS. The format of the document shall be flexible as allowed by WAC 197-11-640, provided:

(a) The fact sheet shall be the first section (WAC 197-11-430(1));

(b) A summary shall be included which meets the requirements in WAC 197-11-440(4); and

(c) Reasonable alternatives as defined in WAC 197-11-786 and 197-11-440(5) (including the no action alternative), significant adverse impacts, mitigation measures and any unavoidable impacts are clearly identified.

(5) If the EIS and RI/FS are not combined, the EIS requirements of WAC 197-11-430 shall apply.

(6) The draft EIS shall be issued no sooner than the issuance of the RI/FS and not later than issuance of the draft cleanup action plan. The final EIS shall be issued no sooner than the issuance of the draft cleanup action plan and no later than the final cleanup action plan, notwithstanding the requirements of WAC 197-11-460(5).

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-262, filed 3/31/95, effective 5/1/95.]

WAC 197-11-265 Early scoping for MTCA remedial actions. (1) The purpose of early scoping is to identify possible environmental issues prior to making a threshold determination. If early scoping is used and a determination of significance is issued later in the process, no additional SEPA scoping is required.

(2) If, after the preliminary evaluation provided in WAC 197-11-256, the lead agency decides there is insufficient information to make a preliminary determination, pursuant to WAC 197-11-256 (1)(b), the lead agency shall invite the public to comment on the proposed study areas. This early scoping will typically be combined with either the MTCA public review process for the scope of work for an ecology conducted RI/FS (WAC 173-340-600 (12)(a)), or the public review process for the order, consent decree, or agreed order for a RI/FS.

(3) The lead agency shall evaluate the comments received during the early scoping process and take one of the following actions:

(a) Determine the project will have a probable significant adverse environmental impact, issue a determination of significance and begin preparation of the EIS pursuant to WAC 197-11-262.

(b) Make a preliminary decision that there will be no probable significant adverse environmental impacts, and proceed as described in WAC 197-11-259.

(c) Determine there is still insufficient information to evaluate the environmental impacts of the remedial action, and proceed with the RI/FS. A threshold determination shall be made pursuant to WAC 197-11-259 or 197-11-262 as appropriate.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-265, filed 3/31/95, effective 5/1/95.]

WAC 197-11-268 MTCA interim actions. The following shall apply when an interim action (WAC 173-340-430) is conducted as part of a remedial action conducted by ecology, or by a potentially liable person under an order, agreed order, or consent decree under MTCA.

(1) If the interim action will not have a probable significant adverse environmental impact, the lead agency shall issue a DNS which may be combined with the public notice of the interim action, provided that for proposals listed in WAC 197-11-340 (2)(a) the comment period is no less than fifteen days prior to the effective date of the MTCA document.

(2) If the interim action will have a probable significant adverse environmental impact, the lead agency shall issue a determination of significance. If early scoping has already been performed for the facility under WAC 197-11-265, no additional scoping is required. If early scoping has not been performed, the lead agency shall issue a DS and scoping notice, allowing at least a twenty-one day advance comment period (WAC 197-11-408).

(3) The final EIS shall be issued no later than the issuance of the interim action report or the issuance of an order, agreed order, or decree.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-268, filed 3/31/95, effective 5/1/95.]

PART THREE - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATION

WAC 197-11-300 Purpose of this part. This part provides rules for:

(1) Administering categorical exemptions for proposals that would not have probable significant adverse impacts;

(2) Deciding whether a proposal has a probable significant adverse impact and thus requires an EIS (the threshold determination);

(3) Providing a way to review and mitigate nonexempt proposals through the threshold determination;

(4) Integrating the environmental analysis required by SEPA into early planning to ensure appropriate consideration of SEPA's policies and to eliminate duplication and delay; and

(5) Integrating the environmental analysis required by SEPA into the project review process.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-300, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-300, filed 2/10/84, effective 4/4/84.]

WAC 197-11-305 Categorical exemptions. (1) If a proposal fits within any of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (WAC 197-11-720) *except* as follows:

(a) The proposal is not exempt under WAC 197-11-908, critical areas.

(b) The proposal is a segment of a proposal that includes:

(i) A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not; or

(ii) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the department of ecology to resolve disputes (WAC 197-11-946).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of WAC 197-11-070 are met.

(2) An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-305, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-305, filed 2/10/84, effective 4/4/84.]

WAC 197-11-310 Threshold determination required. (1) A threshold determination is required for any proposal which meets the definition of action and is not categorically exempt, subject to the limitations in WAC 197-11-600(3) concerning proposals for which a threshold determination has already been issued, or statutorily exempt as provided in chapter 43.21C RCW. A threshold determination is not required for a planned action (refer to WAC 197-11-164 through 197-11-172).

(2) The responsible official of the lead agency shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (WAC 197-11-784). If the lead

agency is a GMA county/city, that agency must meet the timing requirements in subsection (6) of this section.

(3) The responsible official shall make a threshold determination no later than ninety days after the application and supporting documentation are determined to be complete. The applicant may request an additional thirty days for the threshold determination (RCW 43.21C.033).

(4) The time limit in subsection (3) of this section shall not apply to a county/city that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with SEPA requirements; or

(b) Is planning under RCW 36.70A.040 (GMA) and is subject to the requirements of subsection (6) of this section.

(5) All threshold determinations shall be documented in:

(a) A determination of nonsignificance (DNS) (WAC 197-11-340); or

(b) A determination of significance (DS) (WAC 197-11-360).

(6) When a GMA county/city with an integrated project review process under RCW 36.70B.060 is lead agency for a project, the following timing requirements apply:

(a) If a DS is made concurrent with the notice of application, the DS and scoping notice shall be combined with the notice of application (RCW 36.70B.110). Nothing in this subsection prevents the DS/scoping notice from being issued before the notice of application. If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process.

(b) Nothing in this section prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under SEPA or from allowing appeals of procedural determinations prior to submitting a project permit application.

(c) If an open record predecision hearing is required, the threshold determination shall be issued at least fifteen days before the open record predecision hearing (RCW 36.70B.110 (6)(b)).

(d) The optional DNS process in WAC 197-11-355 may be used to indicate on the notice of application that the lead agency is likely to issue a DNS. If this optional process is used, a separate comment period on the DNS may not be required (refer to WAC 197-11-355(4)).

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-310, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-310, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-310, filed 2/10/84, effective 4/4/84.]

WAC 197-11-315 Environmental checklist. (1) Agencies shall use the environmental checklist substantially in the form found in WAC 197-11-960 to assist in making threshold determinations for proposals, except for:

(a) Public proposals on which the lead agency has decided to prepare its own EIS; or

(b) Proposals on which the lead agency and applicant agree an EIS will be prepared; or

(c) Projects which are proposed as planned actions (see subsection (2) of this section).

(2) For projects submitted as planned actions under WAC 197-11-164, a GMA county/city shall use the existing environmental checklist or modify the environmental checklist form to fulfill the purposes outlined in WAC 197-11-172(1), notwithstanding the requirements of WAC 197-11-906(4).

If the GMA county/city chooses to modify the existing environmental checklist, the modified form shall be submitted to the department of ecology to allow at least a thirty-day review prior to use. The department shall notify the GMA county/city within thirty days of receipt if it has any objections to the modified form and the general nature of the objections. If the department objects, the modified form shall not be used until the GMA county/city and the department have reached agreement.

(3) Agencies may use an environmental checklist whenever it would assist in their planning and decision making, but shall only require an applicant to prepare a checklist under SEPA if a checklist is required by subsection (1) of this section.

(4) The lead agency shall prepare the checklist or require an applicant to prepare the checklist.

(5) The items in the environmental checklist are not weighted. The mention of one or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-315, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-315, filed 2/10/84, effective 4/4/84.]

WAC 197-11-330 Threshold determination process. An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

(1) In making a threshold determination, the responsible official shall:

(a) Review the environmental checklist, if used:

(i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and

(ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.

(b) Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (WAC 197-11-960), and any additional information furnished under WAC 197-11-335 and 197-11-350; and

(c) Consider mitigation measures which an agency or the applicant will implement as part of the proposal, including any mitigation measures required by development regulations, comprehensive plans, or other existing environmental rules or laws.

(2) In making a threshold determination, the responsible official should determine whether:

(a) All or part of the proposal, alternatives, or impacts have been analyzed in a previously prepared environmental

document, which can be adopted or incorporated by reference (see Part Six).

(b) Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with WAC 197-11-055 through 197-11-070 and Part Six.

(3) In determining an impact's significance (WAC 197-11-794), the responsible official shall take into account the following, that:

(a) The same proposal may have a significant adverse impact in one location but not in another location;

(b) The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;

(c) Several marginal impacts when considered together may result in a significant adverse impact;

(d) For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified.

(e) A proposal may to a significant degree:

(i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;

(ii) Adversely affect endangered or threatened species or their habitat;

(iii) Conflict with local, state, or federal laws or requirements for the protection of the environment; and

(iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.

(4) If after following WAC 197-11-080 and 197-11-335 the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.

(5) A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-330, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-330, filed 2/10/84, effective 4/4/84.]

WAC 197-11-335 Additional information. The lead agency shall make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal (WAC 197-11-055(2) and 197-11-060(3)). The lead agency may take one or more of the following actions if, after reviewing the checklist, the agency concludes that there is insufficient information to make its threshold determination:

(1) Require an applicant to submit more information on subjects in the checklist;

(2) Make its own further study, including physical investigations on a proposed site;

(3) Consult with other agencies, requesting information on the proposal's potential impacts which lie within the other agencies' jurisdiction or expertise (agencies shall respond in accordance with WAC 197-11-550); or

(4) Decide that all or part of the action or its impacts are not sufficiently definite to allow environmental analysis and commit to timely, subsequent environmental analysis, consistent with WAC 197-11-055 through 197-11-070.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-335, filed 2/10/84, effective 4/4/84.]

WAC 197-11-340 Determination of nonsignificance (DNS). (1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

(2) When a DNS is issued for any of the proposals listed in (2)(a), the requirements in this subsection shall be met. The requirements of this subsection do not apply to a DNS issued when the optional DNS process in WAC 197-11-355 is used.

(a) An agency shall not act upon a proposal for fourteen days after the date of issuance of a DNS if the proposal involves:

(i) Another agency with jurisdiction;

(ii) Demolition of any structure or facility not exempted by WAC 197-11-800 (2)(f) or 197-11-880;

(iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules;

(iv) A DNS under WAC 197-11-350 (2), (3) or 197-11-360(4); or

(v) A GMA action.

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under WAC 197-11-510.

(c) Any person, affected tribe, or agency may submit comments to the lead agency within fourteen days of the date of issuance of the DNS.

(d) The date of issue for the DNS is the date the DNS is sent to the department of ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this fourteen-day period (WAC 197-11-948).

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

(3)(a) The lead agency shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

(b) Subsection (3)(a)(ii) shall not apply when a nonexempt license has been issued on a private project.

(c) If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also WAC 197-11-070).

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-340, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-340, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-340, filed 2/10/84, effective 4/4/84.]

WAC 197-11-350 Mitigated DNS. The purpose of this section is to allow clarifications or changes to a proposal prior to making the threshold determination.

(1) In making threshold determinations, an agency may consider mitigation measures that the agency or applicant will implement.

(2) After submission of an environmental checklist and prior to the lead agency's threshold determination on a proposal, an applicant may ask the lead agency to indicate whether it is considering a DS. If the lead agency indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts which led the agency to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The lead agency shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.

(3) Whether or not an applicant requests early notice under subsection (2), if the lead agency specifies mitigation measures on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified, changed, or conditioned to include those measures, the lead agency shall issue a DNS.

(4) Environmental documents need not be revised and resubmitted if the clarifications or changes are stated in writing in documents that are attachments to, or incorporate by reference, the documents previously submitted. An addendum may be used, see Part Six.

(5) Agencies may clarify or change features of their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning.

(6) An agency's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or changes to a proposal shall not bind the lead agency to a mitigated DNS.

(7) Agencies may specify procedures for enforcement of mitigation measures in their agency SEPA procedures.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-350, filed 2/10/84, effective 4/4/84.]

WAC 197-11-355 Optional DNS process. (1) If a GMA county/city with an integrated project review process (RCW 36.70B.060) is lead agency for a proposal and has a reasonable basis for determining significant adverse environmental impacts are unlikely, it may use a single integrated comment period to obtain comments on the notice of application and the likely threshold determination for the proposal. If this process is used, a second comment period will typically not be required when the DNS is issued (refer to subsection (4) of this section).

(2) If the lead agency uses the optional process specified in subsection (1) of this section, the lead agency shall:

(a) State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:

(i) The optional DNS process is being used;

(ii) This may be the only opportunity to comment on the environmental impacts of the proposal;

(iii) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and

(iv) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request (in addition, the lead agency may choose to maintain a general mailing list for threshold determination distribution).

(b) List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;

(c) Comply with the requirements for a notice of application and public notice in RCW 36.70B.110; and

(d) Send the notice of application and environmental checklist to:

(i) Agencies with jurisdiction, the department of ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and

(ii) Anyone requesting a copy of the environmental checklist for the specific proposal (in addition, the lead agency may choose to maintain a general mailing list for checklist distribution).

(3) If the lead agency indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (WAC 197-11-948).

(4) The responsible official shall consider timely comments on the notice of application and either:

(a) Issue a DNS or mitigated DNS with no comment period using the procedures in subsection (5) of this section;

(b) Issue a DNS or mitigated DNS with a comment period using the procedures in subsection (5) of this section, if the lead agency determines a comment period is necessary;

(c) Issue a DS; or

(d) Require additional information or studies prior to making a threshold determination.

(5) If a DNS or mitigated DNS is issued under subsection (4)(a) of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the department of ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-355, filed 10/10/97, effective 11/10/97.]

WAC 197-11-360 Determination of significance (DS)/initiation of scoping. (1) If the responsible official determines that a proposal may have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in WAC 197-11-980. The DS shall describe the main elements of the proposal, the location of the site, if a site-specific proposal, and the main areas the lead agency has identified for discussion in the EIS. A copy of the environmental checklist may be attached.

(2) If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DS shall be combined or attached to each other.

(3) The responsible official shall put the DS in the lead agency's file and shall commence scoping (WAC 197-11-408) by circulating copies of the DS to the applicant, agencies with jurisdiction and expertise, if any, affected tribes, and to the public. Notice shall be given under WAC 197-11-510. The lead agency is not required to scope if the agency is adopting another environmental document for the EIS or is preparing a supplemental EIS.

(4) If at any time after the issuance of a DS a proposal is changed so, in the judgment of the lead agency, there are no probable significant adverse environmental impacts, the DS shall be withdrawn and a DNS issued instead. The DNS shall be sent to all who commented on the DS. A proposal shall not be considered changed until all license applications for the proposal are revised to conform to the changes or other binding commitments made by agencies or by applicants.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-360, filed 2/10/84, effective 4/4/84.]

WAC 197-11-390 Effect of threshold determination. (1) When the responsible official makes a threshold determination, it is final and binding on all agencies, subject to the provisions of this section and WAC 197-11-340, 197-11-360, and Part Six.

(2) The responsible official's threshold determination:

(a) For proposals listed in WAC 197-11-340(2), shall not be final until fourteen days after issuance.

(b) Shall not apply if another agency with jurisdiction assumes lead agency status under WAC 197-11-948.

(c) Shall not apply when withdrawn by the responsible official under WAC 197-11-340 or 197-11-360.

(d) Shall not apply when reversed on appeal.

(3) Regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decision making unless subsequently changed, reversed, or withdrawn.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-390, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-390, filed 2/10/84, effective 4/4/84.]

PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

WAC 197-11-400 Purpose of EIS. (1) The primary purpose of an environmental impact statement is to ensure that SEPA's policies are an integral part of the ongoing programs and actions of state and local government.

(2) An EIS shall provide impartial discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.

(3) Environmental impact statements shall be concise, clear, and to the point, and shall be supported by the necessary environmental analysis. The purpose of an EIS is best served by short documents containing summaries of, or reference to, technical data and by avoiding excessively detailed and overly technical information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decision making process.

(4) The EIS process enables government agencies and interested citizens to review and comment on proposed government actions, including government approval of private projects and their environmental effects. This process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final statement. An environmental impact statement is more than a disclosure document. It shall be used by agency officials in conjunction with other relevant materials and considerations to plan actions and make decisions.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-400, filed 2/10/84, effective 4/4/84.]

WAC 197-11-402 General requirements. Agencies shall prepare environmental impact statements as follows:

(1) EISs need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant. Beneficial environmental impacts or other impacts may be discussed.

(2) The level of detail shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced.

(3) Discussion of insignificant impacts is not required; if included, such discussion shall be brief and limited to summarizing impacts or noting why more study is not warranted.

(4) Description of the existing environment and the nature of environmental impacts shall be limited to the affected environment and shall be no longer than is necessary to understand the environmental consequences of the alternatives, including the proposal.

(5) EISs shall be no longer than necessary to comply with SEPA and these rules. Length should relate first to potential environmental problems and then to the size or complexity of the alternatives, including the proposal.

(6) The basic features and analysis of the proposal, alternatives, and impacts shall be discussed in the EIS and shall be generally understood without turning to other documents;

however, an EIS is not required to include all information conceivably relevant to a proposal, and may be supplemented by appendices, reports, or other documents in the agency's record.

(7) Agencies shall reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, wherever possible.

(8) Agencies shall prepare EISs concurrently with and coordinated with environmental studies and related surveys that may be required for the proposal under other laws, when feasible.

(9) The range of alternative courses of action discussed in EISs shall encompass those to be considered by the decision maker.

(10) EISs shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-402, filed 2/10/84, effective 4/4/84.]

WAC 197-11-405 EIS types. (1) Draft and final environmental impact statements (EISs) shall be prepared; draft and final supplemental EISs may be prepared.

(2) A draft EIS (DEIS) allows the lead agency to consult with members of the public, affected tribes, and agencies with jurisdiction and with expertise. The lead agency shall issue a DEIS and consider comments as stated in Part Five.

(3) A final EIS (FEIS) shall revise the DEIS as appropriate and respond to comments as required in WAC 197-11-560. An FEIS shall respond to opposing views on significant adverse environmental impacts and reasonable alternatives which the lead agency determines were not adequately discussed in the DEIS. The lead agency shall issue an FEIS as specified by WAC 197-11-460.

(4) A supplemental EIS (SEIS) shall be prepared as an addition to either a draft or final statement if:

(a) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts; or

(b) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts.

Preparation of a SEIS shall be carried out as stated in WAC 197-11-620.

(5) Agencies may use federal EISs, as stated in Part Six.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-405, filed 2/10/84, effective 4/4/84.]

WAC 197-11-406 EIS timing. The lead agency shall commence preparation of the environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal (WAC 197-11-055). The statement shall be prepared early enough so it can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made. EISs may be "phased" in appropriate situations (WAC 197-11-060(5)).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-406, filed 2/10/84, effective 4/4/84.]

WAC 197-11-408 Scoping. (1) The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two or three significant impacts or alternatives, the EIS shall be focused on those.

(2) To ensure that every EIS is concise and addresses the significant environmental issues, the lead agency shall:

(a) Invite agency, affected tribes, and public comment on the DS (WAC 197-11-360).

(i) If the agency requires written comments, agencies, affected tribes and the public shall be allowed twenty-one days from the date of issuance of the DS in which to comment, unless expanded scoping is used.

(ii) If a GMA county/city issues the scoping notice with the notice of application under RCW 36.70B.110, the comment period shall be no less than fourteen days.

(iii) The date of issuance for a DS is the date it is sent to the department of ecology and other agencies with jurisdiction, and is publicly available.

(b) Identify reasonable alternatives and probable significant adverse environmental impacts.

(c) Eliminate from detailed study those impacts that are not significant.

(d) Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

(3) Agencies, affected tribes, and the public should comment promptly and as specifically as permitted by the details available on the proposal.

(4) Meetings or scoping documents, including notices that the scope has been revised, may be used but are *not* required. The lead agency shall integrate the scoping process with its existing planning and decision-making process in order to avoid duplication and delay.

(5) The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

(6) DEISs shall be prepared according to the scope decided upon by the lead agency in its scoping process.

(7) EIS preparation may begin during scoping.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-408, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-408, filed 2/10/84, effective 4/4/84.]

WAC 197-11-410 Expanded scoping. (Optional) (1) At its option, the lead agency may expand the scoping process to include any or all of the following, which may be applied on a proposal-by-proposal basis:

(a) Using questionnaires or information packets.

(b) Using meetings or workshops, which may be combined with any other early planning meetings of the agency.

(c) Using a coordinator or team from inside or outside the agency.

(d) Developing cooperative consultation and exchange of information among agencies before the EIS is prepared,

rather than awaiting submission of comments on a completed document.

(e) Coordinating and integrating other government reviews and approvals with the EIS process through memoranda or other methods.

(f) Inviting participation of agencies with jurisdiction or expertise from various levels of government, such as regional or federal agencies.

(g) Using other methods as the lead agency may find helpful.

(2) Use of expanded scoping is intended to promote interagency cooperation, public participation, and innovative ways to streamline the SEPA process. Steps shall be taken, as the lead agency determines appropriate, to encourage and assist public participation. There are no specified procedural requirements for the methods, techniques, or documents which may be used in an expanded scoping process, to provide maximum flexibility to meet these purposes.

(3) The lead agency shall consult with an applicant prior to deciding the method and schedule for an expanded scoping process.

(4) Under expanded scoping, an applicant may request, in which case the lead agency shall set, a date by which the lead agency shall determine the scope of the EIS, including the need for any field investigations (to the extent permitted by the details available on the proposal). The date shall occur thirty days or less after the DS is issued, unless the lead agency and applicant agree upon a later date.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-410, filed 2/10/84, effective 4/4/84.]

WAC 197-11-420 EIS preparation. For draft and final EISs and SEISs:

(1) Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official, as specified by the lead agency's procedures. No matter who participates in the preparation of the EIS, it is the EIS of the lead agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the lead agency.

(2) The lead agency may have an EIS prepared by agency staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the lead agency. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(3) If a person other than the lead agency is preparing the EIS, the lead agency shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;

(b) Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the lead agency that relate to the subject of the EIS, under chapter 42.17 RCW (Public disclosure and public records law).

(4) Every agency shall specifically provide in its own procedures those situations in which an applicant may be required or authorized to help prepare an EIS. Agency procedures may not require more information of an applicant than allowed by WAC 197-11-100, but may authorize less participation. An applicant may volunteer to provide any information or effort desired, as long as the EIS is supervised and approved by the responsible official. These rules do not prevent an agency from charging any fees which the agency is otherwise allowed to charge (WAC 197-11-914).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-420, filed 2/10/84, effective 4/4/84.]

WAC 197-11-425 Style and size. (1) Environmental impact statements shall be readable reports, which allow the reader to understand the most significant and vital information concerning the proposed action, alternatives, and impacts, without turning to other documents, as provided below and in WAC 197-11-402.

(2) Environmental impact statements shall be concise and written in plain language. EISs shall not be excessively detailed or overly technical. EISs shall explain plainly the meaning of technical terms not generally understood by the general public. This may be done in a glossary or footnotes or by some other means. EISs may include an index for ease in using the statement.

(3) Most of the text of an environmental impact statement shall discuss and compare the environmental impacts and their significance, rather than describe the proposal and the environmental setting. Detailed descriptions may be included in appendices or supporting documents.

(4) The text of an EIS (WAC 197-11-430(3)) normally ranges from thirty to fifty pages and may be shorter. The EIS text shall not exceed seventy-five pages; except for proposals of unusual scope or complexity, where the EIS shall not exceed one hundred fifty pages. Appendices and background material shall be bound separately from the EIS if they exceed twenty-five pages, except if the entire document does not exceed one hundred pages or a FEIS is issued under WAC 197-11-560(5).

(5) If the lead agency decides that additional descriptive material or supporting documentation may be helpful for readers, this background information may be placed in appendices or in separate documents, and shall be readily available to agencies and the public during the comment period.

(6) Agencies shall incorporate material into an environmental impact statement by reference to cut down on bulk, if an agency can do so without impeding agency and public review of the action (WAC 197-11-600 and 197-11-635).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-425, filed 2/10/84, effective 4/4/84.]

WAC 197-11-430 Format. (1) A cover letter or memo from the lead agency shall precede the EIS (WAC 197-11-435). A fact sheet (WAC 197-11-440(2)) shall be the first section of every EIS.

(2) The following format should be used unless the lead agency determines that a different format would improve clear presentation of alternatives and environmental analysis

for a particular proposal (except that the fact sheet shall always be the first section of an EIS):

(a) Fact sheet.

(b) Table of contents (may include the list of elements of the environment).

(c) Summary.

(d) Alternatives, including the proposed action.

(e) Affected environment, significant impacts, and mitigation measures (other than those included in the proposed action).

(f) Distribution list (may be included in appendix).

(g) Appendices, if any (including, for FEIS, comment letters and any separate responses).

(3) The EIS text is divided into two sections: (d) and (e) above. Agencies have wide latitude to organize and present material as they see fit within these two basic sections. Agencies are not required to discuss each subject in WAC 197-11-440 (5) and (6) and 197-11-444 in a separate section of the EIS.

(4) *Additional format considerations.*

(a) Where relevant to the alternatives and impacts of a proposal, the analysis specified in WAC 197-11-440 shall be included regardless of the format of a particular statement.

(b) The format of a FEIS may differ, as specified by WAC 197-11-560.

(c) Additional flexibility is provided in WAC 197-11-442 and 197-11-443 for environmental impact statements related to nonproject proposals.

(d) The elements of the environment for purposes of analyzing environmental impacts are stated in WAC 197-11-444.

(e) Additional guidance on the distinction between environmental and other considerations is given in WAC 197-11-448 and 197-11-450.

(f) EISs may be combined with other documents (WAC 197-11-640).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-430, filed 2/10/84, effective 4/4/84.]

WAC 197-11-435 Cover letter or memo. (1) A cover letter or memo shall precede every EIS, but shall not be considered part of the EIS for adequacy purposes.

(2) The cover letter or memo:

(a) Shall not exceed two pages;

(b) Shall highlight the key environmental issues and options facing agency decision makers as known at the time of issuance;

(c) May include beneficial, as well as adverse environmental impacts and may mention other relevant considerations for decision makers;

(d) Shall identify, for SEIS's, the EIS being supplemented.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-435, filed 2/10/84, effective 4/4/84.]

WAC 197-11-440 EIS contents. (1) An EIS shall contain the following, in the style and format prescribed in the preceding sections.

(2) **Fact sheet.** The fact sheet shall include the following information in this order:

(a) A title and brief description (a few sentences) of the nature and location (by street address, if applicable) of the proposal, including principal alternatives.

(b) The name of the person or entity making the proposal(s) and the proposed or tentative date for implementation.

(c) The name and address of the lead agency, the responsible official, and the person to contact for questions, comments, and information.

(d) A list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible.

(e) Authors and principal contributors to the EIS and the nature or subject area of their contributions.

(f) The date of issue of the EIS.

(g) The date comments are due (for DEISs).

(h) The time and place of public hearings or meetings, if any and if known.

(i) The date final action is planned or scheduled by the lead agency, if known. Agencies may indicate that the date is subject to change. The nature or type of final agency action should be stated unless covered in subsection (a) above.

(j) The type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any.

(k) The location of a prior EIS on the proposal, EIS technical reports, background data, adopted documents, and materials incorporated by reference for this EIS, if any.

(l) The cost to the public for a copy of the EIS.

(3) **Table of contents.**

(a) The table of contents should list, if possible, any documents which are appended, adopted, or serve as technical reports for this EIS (but need not list each comment letter).

(b) The table of contents may include the list of elements of the environment (WAC 197-11-444), indicating those elements or portions of elements which do not involve significant impacts.

(4) **Summary.** The EIS shall summarize the contents of the statement and shall not merely be an expanded table of contents. The summary shall briefly state the proposal's objectives, specifying the purpose and need to which the proposal is responding, the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made among alternative courses of action and the effectiveness of mitigation measures. The summary need not mention every subject discussed in the EIS, but shall include a summary of the proposal, impacts, alternatives, mitigation measures, and significant adverse impacts that cannot be mitigated. The summary shall state when the EIS is part of a phased review, if known, or the lead agency is relying on prior or future environmental review (which should be generally identified). The lead agency shall make the summary sufficiently broad to be useful to the other agencies with jurisdiction.

(5) **Alternatives including the proposed action.**

(a) This section of the EIS describes and presents the proposal (or preferred alternative, if one or more exists) and alternative courses of action.

(b) Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives,

but at a lower environmental cost or decreased level of environmental degradation.

(i) The word "reasonable" is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.

(ii) The "no-action" alternative shall be evaluated and compared to other alternatives.

(iii) Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts either directly, or indirectly through requirement of mitigation measures.

(c) This section of the EIS shall:

(i) Describe the objective(s), proponent(s), and principal features of reasonable alternatives. Include the proposed action, including mitigation measures that are part of the proposal.

(ii) Describe the location of the alternatives including the proposed action, so that a lay person can understand it. Include a map, street address, if any, and legal description (unless long or in metes and bounds).

(iii) Identify any phases of the proposal, their timing, and previous or future environmental analysis on this or related proposals, if known.

(iv) Tailor the level of detail of descriptions to the significance of environmental impacts. The lead agency should retain any detailed engineering drawings and technical data, that have been submitted, in agency files and make them available on request.

(v) Devote sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action. The amount of space devoted to each alternative may vary. One alternative (including the proposed action) may be used as a benchmark for comparing alternatives. The EIS may indicate the main reasons for eliminating alternatives from detailed study.

(vi) Present a comparison of the environmental impacts of the reasonable alternatives, and include the no action alternative. Although graphics may be helpful, a matrix or chart is not required. A range of alternatives or a few representative alternatives, rather than every possible reasonable variation, may be discussed.

(vii) Discuss the benefits and disadvantages of reserving for some future time the implementation of the proposal, as compared with possible approval at this time. The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal.

(d) When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents.

(6) **Affected environment, significant impacts, and mitigation measures.**

(a) This section of the EIS shall describe the existing environment that will be affected by the proposal, analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts. Elements of the environment that are not significantly affected need not be discussed. Separate sections are not required for each subject (see WAC 197-11-430(3)).

(b) General requirements for this section of the EIS.

(i) This section shall be written in a nontechnical manner which is easily understandable to lay persons whenever possible, with the discussion commensurate with the importance of the impacts. Only significant impacts must be discussed; other impacts may be discussed.

(ii) Although the lead agency should discuss the affected environment, environmental impacts, and other mitigation measures together for each element of the environment where there is a significant impact, the responsible official shall have the flexibility to organize this section in any manner useful to decision makers and the public (see WAC 197-11-430(3)).

(iii) This subsection is not intended to duplicate the analysis in subsection (5) and shall avoid doing so to the fullest extent possible.

(c) This section of the EIS shall:

(i) Succinctly describe the principal features of the environment that would be affected, or created, by the alternatives including the proposal under consideration. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated.

(ii) Describe and discuss significant impacts that will narrow the range or degree of beneficial uses of the environment or pose long term risks to human health or the environment, such as storage, handling, or disposal of toxic or hazardous material.

(iii) Clearly indicate those mitigation measures (not described in the previous section as part of the proposal or alternatives), if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement.

(iv) Indicate what the intended environmental benefits of mitigation measures are for significant impacts, and may discuss their technical feasibility and economic practicability, if there is concern about whether a mitigation measure is capable of being accomplished. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see WAC 197-11-660(2)). An EIS may briefly mention nonsignificant impacts or mitigation measures to satisfy other environmental review laws or requirements covered in the same document (WAC 197-11-402(8) and 197-11-640).

(v) Summarize significant adverse impacts that cannot or will not be mitigated.

(d) This section shall incorporate, when appropriate:

(i) A summary of existing plans (for example: Land use and shoreline plans) and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.

(ii) Energy requirements and conservation potential of various alternatives and mitigation measures, including more efficient use of energy, such as insulating, as well as the use of alternate and renewable energy resources.

(iii) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(iv) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(e) Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (WAC 197-11-444). This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EISs shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW 43.21C.110 (1)(d) and (f), as listed in WAC 197-11-444.

(7) **Appendices.** Comment letters and responses shall be circulated with the FEIS as specified by WAC 197-11-560. Technical reports and supporting documents need not be circulated with an EIS (WAC 197-11-425(4) and 197-11-440 (2)(k)), but shall be readily available to agencies and the public during the comment period.

(8) **(Optional)** The lead agency may include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (WAC 197-11-640). The EIS shall comply with the format requirements of this part. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-440, filed 2/10/84, effective 4/4/84.]

WAC 197-11-442 Contents of EIS on nonproject proposals. (1) The lead agency shall have more flexibility in preparing EISs on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. The EIS may be combined with other planning documents.

(2) The lead agency shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. In particular, agencies are encouraged to describe the proposal in terms of alternative means of accomplishing a stated objective (see WAC 197-11-060(3)). Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits (this does not require devoting the same number of pages in an EIS to each alternative).

(3) If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.

(4) The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-442, filed 2/10/84, effective 4/4/84.]

WAC 197-11-443 EIS contents when prior nonproject EIS. (1) The provisions for phased review (WAC 197-11-060(5)) and use of existing environmental documents, Part Six, apply to EISs on nonproject proposals.

(2) A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. The scope shall be limited accordingly. Procedures for use of existing documents shall be used as appropriate, see Part Six.

(3) When preparing a project EIS under the preceding subsection, the lead agency shall review the nonproject EIS to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis shall be reanalyzed in the project EIS.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-443, filed 2/10/84, effective 4/4/84.]

WAC 197-11-444 Elements of the environment. (1) Natural environment

(a) Earth

(i) Geology

(ii) Soils

(iii) Topography

(iv) Unique physical features

(v) Erosion/enlargement of land area (accretion)

(b) Air

(i) Air quality

(ii) Odor

(iii) Climate

(c) Water

(i) Surface water movement/quantity/quality

(ii) Runoff/absorption

(iii) Floods

(iv) Groundwater movement/quantity/quality

(v) Public water supplies

(d) Plants and animals

(i) Habitat for and numbers or diversity of species of plants, fish, or other wildlife

(ii) Unique species

(iii) Fish or wildlife migration routes
(e) Energy and natural resources
(i) Amount required/rate of use/efficiency
(ii) Source/availability
(iii) Nonrenewable resources
(iv) Conservation and renewable resources
(v) Scenic resources
(2) Built environment
(a) Environmental health
(i) Noise
(ii) Risk of explosion
(iii) Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials
(b) Land and shoreline use
(i) Relationship to existing land use plans and to estimated population
(ii) Housing
(iii) Light and glare
(iv) Aesthetics
(v) Recreation
(vi) Historic and cultural preservation
(vii) Agricultural crops
(c) Transportation
(i) Transportation systems
(ii) Vehicular traffic
(iii) Waterborne, rail, and air traffic
(iv) Parking
(v) Movement/circulation of people or goods
(vi) Traffic hazards
(d) Public services and utilities
(i) Fire
(ii) Police
(iii) Schools
(iv) Parks or other recreational facilities
(v) Maintenance
(vi) Communications
(vii) Water/storm water
(viii) Sewer/solid waste
(ix) Other governmental services or utilities

(3) To simplify the EIS format, reduce paperwork and duplication, improve readability, and focus on the significant issues, some or all of the elements of the environment in WAC 197-11-444 may be combined.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-444, filed 2/10/84, effective 4/4/84.]

WAC 197-11-448 Relationship of EIS to other considerations. (1) SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions. However, the environmental impact statement is not required to evaluate and document all of the possible effects and considerations of a decision or to contain the balancing judgments that must ultimately be made by the decision makers. Rather, an environmental impact statement analyzes *environmental* impacts and must be used by agency decision makers, along with other relevant considerations or documents, in making final decisions on a proposal. The EIS provides a basis upon which the responsible agency and officials can make the balancing judgment mandated by SEPA, because it provides information on the environmental costs and impacts. SEPA does not require that an EIS be an agency's only decision making document.

(2) The term "socioeconomic" is not used in the statute or in these rules because the term does not have a uniform meaning and has caused a great deal of uncertainty. Areas of urban environmental concern which must be considered are specified in RCW 43.21C.110 (1)(f), the environmental checklist (WAC 197-11-960) and WAC 197-11-440 and 197-11-444.

(3) Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis (such as fiscal and welfare policies and nonconstruction aspects of education and communications). EISs may include whether housing is low, middle, or high income.

(4) Agencies have the option to combine EISs with other documents or to include additional analyses in EISs, that will assist in making decisions (WAC 197-11-440(8) and 197-11-640). Agencies may use the scoping process to help identify issues of concern to citizens.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-448, filed 2/10/84, effective 4/4/84.]

WAC 197-11-450 Cost-benefit analysis. A cost-benefit analysis (WAC 197-11-726) is not required by SEPA. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered by an agency for the proposal, it may be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-450, filed 2/10/84, effective 4/4/84.]

WAC 197-11-455 Issuance of DEIS. (1) A draft EIS shall be issued by the responsible official and sent to the following:

(a) The department of ecology (2 copies).
(b) Each federal agency with jurisdiction over the proposal.
(c) Each agency with jurisdiction over or environmental expertise on the proposal.
(d) Each city/county in which adverse environmental impacts identified in the EIS may occur, if the proposal were implemented.
(e) Each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal.
(f) The applicable local, area-wide, or regional agency, if any, that has been designated under federal law to conduct intergovernmental review and coordinate federal activities with state or local planning.
(g) Any person requesting a copy of the EIS from the lead agency (fee may be charged for DEIS, see WAC 197-11-504).
(h) Any affected tribe.

(2) The lead agency is encouraged to send a notice of availability or a copy of the DEIS to any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (for example, local and regional libraries). This is not meant to duplicate subsection (1)(g) of this section.

(3) The lead agency should make additional copies available at its offices to be reviewed or obtained.

(4) The date of issue is the date the DEIS is publicly available and sent to the department of ecology and other agencies with jurisdiction.

(5) Notice that a DEIS is available shall be given under WAC 197-11-510.

(6) Any person or agency shall have thirty days from the date of issue in which to review and comment upon the DEIS.

(7) Upon request, the lead agency may grant an extension of up to fifteen days to the comment period. Agencies and the public must request any extension before the end of the comment period.

(8) The rules for notice, costs, commenting, and response to comments on EISs are stated in Part Five of these rules.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-455, filed 2/10/84, effective 4/4/84.]

WAC 197-11-460 Issuance of FEIS. (1) A final EIS (FEIS) shall be issued by the responsible official and sent to the department of ecology (2 copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see WAC 197-11-504.)

(2) The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS and to those who received but did not comment on the DEIS. If the agency receives petitions from a specific group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.

(3) The lead agency should make additional copies available in its offices for review.

(4) The date of issue is the date the FEIS, or notice of availability, is sent to the persons and agencies specified in the preceding subsections and the FEIS is publicly available. Copies sent to the department of ecology shall satisfy the statutory requirement of availability to the governor and to the ecological commission.

(5) Agencies shall not act on a proposal for which an EIS has been required prior to seven days after issuance of the FEIS.

(6) The lead agency shall issue the FEIS within sixty days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

(7) The form and content of the FEIS is specified in WAC 197-11-560.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-460, filed 2/10/84, effective 4/4/84.]

PART FIVE - COMMENTING

WAC 197-11-500 Purpose of this part. This part provides rules for:

(1) Notice and public availability of environmental documents, especially environmental impact statements;

(2) Consultation and comment by agencies and members of the public on environmental documents;

(3) Public hearings and meetings; and

(4) Lead agency response to comments and preparation of final environmental impact statements. Review, comment, and responsiveness to comments on a draft EIS are the focal point of the act's commenting process because the DEIS is developed as a result of scoping and serves as the basis for the final statement.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-500, filed 2/10/84, effective 4/4/84.]

WAC 197-11-502 Inviting comment. (1) Agency efforts to involve other agencies and the public in the SEPA process should be commensurate with the type and scope of the environmental document.

(2) Consulted agencies have a responsibility to respond in a timely and specific manner to requests for comments (WAC 197-11-545, 197-11-550, and 197-11-724).

(3) **Threshold determinations.**

(a) Agencies shall send DNSs to other agencies with jurisdiction, if any, as required by WAC 197-11-340(2) and 197-11-355.

(b) For DNSs issued under WAC 197-11-340(2), agencies shall provide public notice under WAC 197-11-510 and receive comments on the DNS for fourteen days.

(4) **Scoping.**

(a) Agencies shall circulate the DS and invite comments on the scope of an EIS, as required by WAC 197-11-360, 197-11-408, and 197-11-510.

(b) Agencies may use other reasonable methods to inform agencies and the public, such as those indicated in WAC 197-11-410.

(c) The lead agency determines the method for commenting (WAC 197-11-408 and 197-11-410).

(5) **DEIS.**

(a) Agencies shall invite comments on and circulate DEISs as required by WAC 197-11-455.

(b) The commenting period shall be thirty days unless extended by the lead agency under WAC 197-11-455.

(c) Agencies shall comment and respond as stated in this part. This meets the act's formal consultation and comment requirement in RCW 43.21C.030 (2)(d).

(6) **Public hearings and meetings.**

(a) Public hearings or meetings may be held (WAC 197-11-535). Notice of such public hearings shall be given under WAC 197-11-510 and may be combined with other agency notice.

(b) In conjunction with the requirements of WAC 197-11-510, notice of public hearings shall be published no later than ten days before the hearing. For nonproject proposals, notice of the public hearing shall be published in a newspaper

of general circulation in the general area where the lead agency has its principal offices. For nonproject proposals having a regional or statewide applicability, copies of the notice shall be given to the Olympia bureaus of the Associated Press and United Press International.

(7) **FEIS.** Agencies shall circulate FEISs as required by WAC 197-11-460.

(8) **Supplements.**

(a) Notice for and circulation of draft and final SEISs shall be done in the same manner as other draft and final EISs.

(b) When a DNS is issued after a DS has been withdrawn (WAC 197-11-360(4)), agencies shall give notice under WAC 197-11-510 and receive comments for fourteen days.

(c) An addendum need not be circulated unless required under WAC 197-11-625.

(9) **Appeals.** Notice provisions for appeals are in WAC 197-11-680.

(10) Agencies may circulate any other environmental documents for the purpose of providing information or seeking comment, as an agency deems appropriate.

(11) In addition to any required notice or circulation, agencies may use any other reasonable methods, to inform agencies and the public that environmental documents are available or that hearings will occur.

(12) Agencies may combine SEPA notices with other agency notices. However, the SEPA information must be identifiable.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-502, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-502, filed 2/10/84, effective 4/4/84.]

WAC 197-11-504 Availability and cost of environmental documents. (1) SEPA documents required by these rules shall be retained by the lead agency and made available in accordance with chapter 42.17 RCW.

(2) The lead agency shall make copies of any environmental document available in accordance with chapter 42.17 RCW, charging only those costs allowed plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these rules. Agencies are encouraged, if requested, to waive the charge for an environmental document (not including the SEPA register) provided to a public interest organization.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-504, filed 2/10/84, effective 4/4/84.]

WAC 197-11-508 SEPA register. (1) The department of ecology shall prepare a SEPA register at least weekly, giving notice of all environmental documents required to be sent to the department of ecology under these rules, specifically:

(a) DNSs under WAC 197-11-340(2);

(b) DSs (scoping notices) under WAC 197-11-408;

(c) EISs under WAC 197-11-455, 197-11-460, 197-11-620, and 197-11-630;

(d) Notices of action under RCW 43.21C.080 and 43.21C.087; and

(e) Notices in the optional DNS process under WAC 197-11-355 (2)(d)(i) and (5).

(2) All agencies shall submit the environmental documents listed in subsection (1) of this section to the department promptly and in accordance with procedures established by the department.

(3) Agencies are encouraged to refer to the SEPA register for notice of SEPA documents which may affect them.

(4) The department:

(a) Shall establish the method for distributing the SEPA register, which may include listing on internet, publishing and mailing to interested persons, or any other method deemed appropriate by the department.

(b) May establish a reasonable format for the SEPA register;

(c) May charge a reasonable fee for the SEPA register as allowed by law, in at least the amount allowed by chapter 42.17 RCW, from agencies, members of the public, and interested organizations.

(5) Members of the public, citizen and community groups, and educational institutions are encouraged to refer to the SEPA register for notice of SEPA actions which may affect them.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-508, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-508, filed 2/10/84, effective 4/4/84.]

WAC 197-11-510 Public notice. (1) When these rules require notice to be given under this section, the lead agency must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held. The agency may use its existing notice procedures.

Examples of reasonable methods to inform the public are:

(a) Posting the property, for site-specific proposals;

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(f) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals or subject areas).

(2) Each agency shall specify its method of public notice in its SEPA procedures, WAC 197-11-904 and 197-11-906. If an agency does not specify its method of public notice or does not adopt SEPA procedures, the agency shall use methods (a) and (b) in subsection (1).

(3) Documents which are required to be sent to the department of ecology under these rules will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet compliance with this section.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-510, filed 2/10/84, effective 4/4/84.]

WAC 197-11-535 Public hearings and meetings. (1) If a public hearing on the proposal is held under some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any environmental document that is available. This does not require extension of the comment periods for environmental documents.

(2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:

(a) The lead agency determines, in its sole discretion, that a public hearing would assist it in meeting its responsibility to implement the purposes and policies of SEPA and these rules; or

(b) When fifty or more persons residing within the jurisdiction of the lead agency, or who would be adversely affected by the environmental impact of the proposal, make written request to the lead agency within thirty days of issuance of the draft EIS; or

(c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within thirty days of the issuance of the draft EIS.

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no earlier than fifteen days from the date the draft EIS is issued, nor later than fifty days from its issuance. Notice shall be given under WAC 197-11-502(6) and 197-11-510 and may be combined with other agency notice.

(4) If a public hearing is required under this chapter, it shall be open to discussion of all environmental documents and any written comments that have been received by the lead agency prior to the hearing. A copy of the environmental document shall be available at the public hearing.

(5) Comments at public hearings should be as specific as possible (see WAC 197-11-550).

(6) Agencies and their designees may hold informal public meetings or workshops. Such gatherings may be more flexible than public hearings and are not subject to the above notice and similar requirements for public hearings.

(7) Public meetings held by local governments under chapter 36.70B RCW may be used to meet SEPA public hearing requirements as long as the requirements for public hearing in this section are met. A public hearing under this section need not be an open record hearing as defined in RCW 36.70B.020(3).

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-535, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-535, filed 2/10/84, effective 4/4/84.]

WAC 197-11-545 Effect of no comment. (1) **Consulted agencies.** If a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise. Any consulted agency that fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with Part Four of these rules.

(2) **Other agencies and the public.** Lack of comment by other agencies or members of the public on environmental documents, within the time periods specified by these rules, shall be construed as lack of objection to the environmental analysis, if the requirements of WAC 197-11-510 are met.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-545, filed 2/10/84, effective 4/4/84.]

WAC 197-11-550 Specificity of comments. (1) Comments on an EIS, DNS, scoping notice or proposal shall be as specific as possible and may address either the adequacy of the environmental document or the merits of the alternatives discussed or both.

(2) Commenters shall briefly describe the nature of any documents referenced in their comments, indicating the material's relevance, and should indicate where the material can be reviewed or obtained.

(3) **Methodology.** When an agency criticizes a lead agency's predictive methodology, the commenting agency should describe, when possible, the alternative methodology which it prefers and why.

(4) **Additional information.** A consulted agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs, to the extent permitted by the details available on the proposal.

(5) **Mitigation measures.** When an agency with jurisdiction objects to or expresses concerns about a proposal, it shall specify the mitigation measures, if any are possible, it considers necessary to allow an agency to grant or approve applicable licenses.

(6) **Comments by other agencies.** Commenting agencies that are not consulted agencies shall specify any additional information or mitigation measures the commenting agency believes are necessary or desirable to satisfy its concerns.

(7) **Citizen comments.** Recognizing their generally more limited resources, members of the public shall make their comments as specific as possible and are encouraged to comment on methodology needed, additional information, and mitigation measures in the manner indicated in this section.

(8) An agency shall consider and may respond to comments as the agency deems appropriate; the requirements for responding in a FEIS shall be met (WAC 197-11-560).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-550, filed 2/10/84, effective 4/4/84.]

WAC 197-11-560 FEIS response to comments. (1) The lead agency shall prepare a final environmental impact statement whenever a DEIS has been prepared, unless the proposal is withdrawn or indefinitely postponed. The lead agency shall consider comments on the proposal and shall respond by one or more of the means listed below, including its response in the final statement. Possible responses are to:

(a) Modify alternatives including the proposed action.

(b) Develop and evaluate alternatives not previously given detailed consideration by the agency.

(c) Supplement, improve, or modify the analysis.

(d) Make factual corrections.

(e) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.

(2) All substantive comments received on the draft statement shall be appended to the final statement or summarized, where comments are repetitive or voluminous, and the summary appended. If a summary of the comments is used, the names of the commenters shall be included (except for petitions).

(3) In carrying out subsection (1), the lead agency may respond to each comment individually, respond to a group of comments, cross-reference comments and corresponding changes in the EIS, or use other reasonable means to indicate an appropriate response to comments.

(4) If the lead agency does not receive any comments critical of the scope or content of the DEIS, the lead agency may so state in an updated fact sheet (WAC 197-11-440(2)), which shall be circulated under WAC 197-11-460. The FEIS shall consist of the DEIS and updated fact sheet.

(5) If changes in response to comments are minor and are largely confined to the responses described in subsections (1)(d) and (e) of this section, agencies may prepare and attach an addendum, which shall consist of the comments, the responses, the changes, and an updated fact sheet. The FEIS, consisting of the DEIS and the addendum, shall be issued under WAC 197-11-460, except that only the addendum need be sent to anyone who received the DEIS.

(6) An FEIS shall be issued and circulated under WAC 197-11-460.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-560, filed 2/10/84, effective 4/4/84.]

WAC 197-11-570 Consulted agency costs to assist lead agency. A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 197-11-550, including providing relevant data to the lead agency and copying documents for the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by chapter 42.17 RCW for copying any environmental document requested by an agency other than the lead agency or by an individual or private organization. This section does not prohibit agencies from making interagency agreements on cost or personnel sharing to provide environmental information to each other.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-570, filed 2/10/84, effective 4/4/84.]

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

WAC 197-11-600 When to use existing environmental documents. (1) This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA.

(2) An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts. The proposals may be the same as, or different than, those analyzed in the existing documents.

(3) Any agency acting on the same proposal shall use an environmental document unchanged, except in the following cases:

(a) For DNSs, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (WAC 197-11-340 (2)(e) and 197-11-948).

(b) For DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are:

(i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or

(ii) New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.

(c) For EISs, the agency concludes that its written comments on the DEIS warrant additional discussion for purposes of its action than that found in the lead agency's FEIS (in which case the agency may prepare a supplemental EIS at its own expense).

(4) Existing documents may be used for a proposal by employing one or more of the following methods:

(a) "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or

(b) "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing document by reference.

(c) An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.

(d) Preparation of a SEIS if there are:

(i) Substantial changes so that the proposal is likely to have significant adverse environmental impacts; or

(ii) New information indicating a proposal's probable significant adverse environmental impacts.

(e) If a proposal is substantially similar to one covered in an existing EIS, that EIS may be adopted; additional information may be provided in an addendum or SEIS (see (c) and (d) of this subsection).

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-600, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-600, filed 2/10/84, effective 4/4/84.]

WAC 197-11-610 Use of NEPA documents. (1) An agency may adopt any environmental analysis prepared under the National Environmental Policy Act (NEPA) by following WAC 197-11-600 and 197-11-630.

(2) A NEPA environmental assessment may be adopted to satisfy requirements for a determination of nonsignificance

or EIS, if the requirements of WAC 197-11-600 and 197-11-630 are met.

(3) An agency may adopt a NEPA EIS as a substitute for preparing a SEPA EIS if:

(a) The requirements of WAC 197-11-600 and 197-11-630 are met (in which case the procedures in Parts Three through Five of these rules for preparing an EIS shall not apply); and

(b) The federal EIS is not found inadequate: (i) By a court; (ii) by the council on environmental quality (CEQ) (or is at issue in a predecision referral to CEQ) under the NEPA regulations; or (iii) by the administrator of the United States Environmental Protection Agency under section 309 of the Clean Air Act, 42 U.S.C 1857.

(4) Subsequent use by another agency of a federal EIS, adopted under subsection (3) of this section, for the same (or substantially the same) proposal does not require adoption, unless the criteria in WAC 197-11-600(3) are met.

(5) If the lead agency has not held a public hearing within its jurisdiction to obtain comments on the adequacy of adopting a federal environmental document as a substitute for preparing a SEPA EIS, a public hearing for such comments shall be held if, within thirty days of circulating its statement of adoption, a written request is received from at least fifty persons who reside within the agency's jurisdiction or are adversely affected by the environmental impact of the proposal. The agency shall reconsider its adoption of the federal document in light of public hearing comments.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-610, filed 2/10/84, effective 4/4/84.]

WAC 197-11-620 Supplemental environmental impact statement—Procedures. (1) An SEIS shall be prepared in the same way as a draft and final EIS (WAC 197-11-400 to 197-11-600), except that scoping is optional. The SEIS should not include analysis of actions, alternatives, or impacts that is in the previously prepared EIS.

(2) The fact sheet and cover letter or memo for the SEIS shall indicate the EIS that is being supplemented.

(3) Unless the SEPA lead agency wants to prepare the SEIS, an agency with jurisdiction which needs the SEIS for its action shall be responsible for SEIS preparation.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-620, filed 2/10/84, effective 4/4/84.]

WAC 197-11-625 Addenda—Procedures. (1) An addendum shall clearly identify the proposal for which it is written and the environmental document it adds to or modifies.

(2) An agency is not required to prepare a draft addendum.

(3) An addendum for a DEIS shall be circulated to recipients of the initial DEIS under WAC 197-11-455.

(4) If an addendum to a final EIS is prepared prior to any agency decision on a proposal, the addendum shall be circulated to the recipients of the final EIS.

(5) Agencies are encouraged to circulate addenda to interested persons. Unless otherwise provided in these rules, however, agencies are not required to circulate an addendum.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-625, filed 2/10/84, effective 4/4/84.]

WAC 197-11-630 Adoption—Procedures. (1) The agency adopting an existing environmental document must independently review the content of the document and determine that it meets the adopting agency's environmental review standards and needs for the proposal. However a document is not required to meet the adopting agency's own procedures for the preparation of environmental documents (such as circulation, commenting, and hearing requirements) to be adopted.

(2) An agency shall adopt an environmental document by identifying the document and stating why it is being adopted, using the adoption form substantially as in WAC 197-11-965. The adopting agency shall ensure that the adopted document is readily available to agencies and the public by:

(a) Sending a copy to agencies with jurisdiction that have not received the document, as shown by the distribution list for the adopted document; and

(b) Placing copies in libraries and other public offices, or by distributing copies to those who request one.

(3) When an existing EIS is adopted and:

(a) A supplemental environmental impact statement or addendum is not being prepared, the agency shall circulate its statement of adoption as follows:

(i) The agency shall send copies of the adoption notice to the department of ecology, to agencies with jurisdiction, to cities/counties in which the proposal will be implemented, and to local agencies or political subdivisions whose public services would be changed as a result of implementation of the proposal.

(ii) The agency is encouraged to send the adoption notice to persons or organizations that have expressed an interest in the proposal or are known by the agency to have an interest in the type of proposal being considered, or the lead agency should announce the adoption in agency newsletters or through other means.

(iii) No action shall be taken on the proposal until seven days after the statement of adoption has been issued. The date of issuance shall be the date the statement of adoption has been sent to the department of ecology and other agencies and is publicly available.

(b) A SEIS is being prepared, the agency shall include the statement of adoption in the SEIS; or

(c) An addendum is being prepared, the agency shall include the statement of adoption with the addendum and circulate both as in subsection (3)(a) of this section.

(4) A copy of the adopted document must accompany the current proposal to the decision maker; the statement of adoption may be included.

(5) If known, the adopting agency shall disclose in its adoption notice when the adopted document or proposal it addresses is the subject of a pending appeal or has been found inadequate on appeal.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-630, filed 2/10/84, effective 4/4/84.]

WAC 197-11-635 Incorporation by reference—Procedures. (1) Agencies should use existing studies and incorporate material by reference whenever appropriate.

(2) Material incorporated by reference (a) shall be cited, its location identified, and its relevant content briefly

described; and (b) shall be made available for public review during applicable comment periods.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-635, filed 2/10/84, effective 4/4/84.]

WAC 197-11-640 Combining documents. The SEPA process shall be combined with the existing planning, review, and project approval processes being used by each agency with jurisdiction. When environmental documents are required, they shall accompany a proposal through the existing agency review processes. Any environmental document in compliance with SEPA may be combined with any other agency documents to reduce duplication and paperwork and improve decision making. The page limits in these rules shall be met, or the combined document shall contain, at or near the beginning of the document, a separate summary of environmental considerations, as specified by WAC 197-11-440(4). SEPA page limits need not be met for joint state-federal EISs prepared under both SEPA and NEPA, in which case the NEPA page restrictions (40 CFR 1502.7) shall apply.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-640, filed 2/10/84, effective 4/4/84.]

PART SEVEN - SEPA AND AGENCY DECISIONS

WAC 197-11-650 Purpose of this part. The purpose of this part is to:

(1) Ensure the use of concise, high quality environmental documents and information in making decisions.

(2) Integrate the SEPA process with other laws and decisions.

(3) Encourage actions that preserve and enhance environmental quality, consistent with other essential considerations of state policy.

(4) Provide basic, uniform principles for the exercise of substantive authority and appeals under SEPA.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-650, filed 2/10/84, effective 4/4/84.]

WAC 197-11-655 Implementation. (1) See RCW 43.21C.020, 43.21C.030(1), 43.21C.060, 43.21C.075, and 43.21C.080.

(2) Relevant environmental documents, comments, and responses shall accompany proposals through existing agency review processes, as determined by agency practice and procedure, so that agency officials use them in making decisions.

(3) When a decision maker considers a final decision on a proposal:

(a) The alternatives in the relevant environmental documents shall be considered.

(b) The range of alternative courses of action considered by decision makers shall be within the range of alternatives discussed in the relevant environmental documents. However, mitigation measures adopted need not be identical to those discussed in the environmental document.

(c) If information about alternatives is contained in another decision document which accompanies the relevant environmental documents to the decision maker, agencies are encouraged to make that information available to the public before the decision is made.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-655, filed 2/10/84, effective 4/4/84.]

WAC 197-11-660 Substantive authority and mitigation. (1) Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

(a) Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated by the agency (or appropriate legislative body, in the case of local government) as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued.

(b) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the decision maker. The decision maker shall cite the agency SEPA policy that is the basis of any condition or denial under this chapter (for proposals of applicants). After its decision, each agency shall make available to the public a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the license itself, or may be combined with other agency documents, or may reference relevant portions of environmental documents.

(c) Mitigation measures shall be reasonable and capable of being accomplished.

(d) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

(e) Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.

(f) To deny a proposal under SEPA, an agency must find that:

(i) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

(ii) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(g) If, during project review, a GMA county/city determines that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city's development regulations or comprehensive plan adopted under chapter 36.70A RCW, or in other applicable local, state or federal laws or rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the GMA county/city shall not impose additional mitigation under this chapter.

(2) Decision makers should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EISs should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (WAC 197-11-440(6)). EISs are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

(a) Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

(b) Will not be analyzed in a subsequent environmental document prior to their implementation.

(3) Agencies shall prepare a document that contains agency SEPA policies (WAC 197-11-902), so that applicants and members of the public know what these policies are. This document shall include, or reference by citation, the regulations, plans, or codes formally designated under this section and RCW 43.21C.060 as possible bases for conditioning or denying proposals. If only a portion of a regulation, plan, or code is designated, the document shall identify that portion. This document (and any documents referenced in it) shall be readily available to the public and shall be available to applicants prior to preparing a draft EIS.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-660, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-660, filed 2/10/84, effective 4/4/84.]

WAC 197-11-680 Appeals. (1) **Introduction.** Appeals provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080. These rules attempt to construe and interpret the statutory provisions. In the event a court determines that these rules are inconsistent with statutory provisions, or with the framework and policy of SEPA, the statute will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory sections cited above.

(2) **Appeal to local legislative body.** RCW 43.21C.060 allows an appeal to a local legislative body of any decision by a local nonelected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal, or may eliminate such appeals altogether, by rule, ordinance or resolution. Such appeals are subject to the restrictions in RCW 36.70B.050 and 36.70B.060 that local governments provide no more than one open record hearing and one closed record appeal for permit decisions.

(3) **Agency administrative appeal procedures.**

(a) Agencies may provide for an administrative appeal of determinations relating to SEPA in their agency SEPA procedures. If so, the procedures must comply with the following:

(i) The agency must specify by rule, ordinance, or resolution that the appeals procedure is available.

(ii) Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(iii) 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.

(iv) An agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed. This limitation does not apply to administrative appeals before another agency.

(v) Except as provided in (a)(vi) of this subsection, the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before one hearing officer or body. The hearing or appeal shall be one at which the hearing officer or body will consider either the agency's decision or a recommendation on the proposed underlying governmental action. For example, an appeal of the adequacy of an EIS must be consolidated with a hearing or appeal on the agency's decision or recommendation on the proposed action, if both proceedings are allowed in agency procedures. If an agency does not provide for a hearing or appeal on the underlying governmental action (either a hearing on the agency's recommendation or an agency appeal hearing after the decision is made), the agency may not hold a SEPA administrative appeal, except as allowed under (a)(vi) of this subsection.

(vi) The following appeals of SEPA procedural or substantive determinations need not be consolidated with a hearing or appeal on the underlying governmental action:

(A) An appeal of a determination of significance;

(B) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction;

(C) An appeal of a procedural determination made by an agency on a nonproject action; and

(D) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes.

(vii) If a county/city to which RCW 36.70B.110 applies provides for an administrative appeal, any such appeal of a procedural or substantive determination under SEPA issued at the same time as the decision on a project action shall be filed within fourteen days after a notice of decision under RCW 36.70B.130 or after other notice that the decision has been made and is appealable. In order to allow public comment on a DNS prior to requiring an administrative appeal to be filed, this appeal period shall be extended for an additional seven days if the appeal is of a DNS for which public comment is required under this chapter or under county/city rules adopted under SEPA. For threshold determinations issued prior to a decision on a project action, any administrative appeal allowed by a county/city shall be filed within fourteen days after notice that the determination has been made and is appealable. Nothing in this subsection alters the requirements of (a)(v) and (vi) of this subsection.

(viii) Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(b) Agencies providing for administrative appeals shall provide for a record as required by RCW 43.21C.075 (3)(c).

(c) If an agency provides an administrative appeal procedure, that procedure must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under the agency procedures.

(4) Judicial appeals.

(a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit.

(c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within such time period.

(d) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be the time limit in the statute or ordinance for the underlying governmental action. If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

(e) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen days, then the notice of action in RCW 43.21C.080(1) may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.

(f) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

(g) For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in chapter 4.16 RCW.

(5) **Official notice of the date and place for commencing a judicial appeal.**

(a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:

(i) The time limit for commencing appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit; and

(ii) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subparagraph shall not be given prior to final agency action.

[Statutory Authority: Chapter 43.21C RCW and 1997 c 429. 98-06-092 (Order 97-43), § 197-11-680, filed 3/4/98, effective 3/8/98. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-680, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-680, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-680, filed 2/10/84, effective 4/4/84.]

PART EIGHT - DEFINITIONS

WAC 197-11-700 Definitions. (1) The terms used in these rules shall be uniform throughout the state as applied to SEPA (WAC 197-11-040). Agencies may add to certain of these definitions in their procedures, to help explain how they carry out SEPA, but shall not change these definitions (WAC 197-11-906).

(2) Unless the context clearly requires otherwise:

(a) Use of the singular shall include the plural and conversely.

(b) "Preparation" of environmental documents refers to preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements.

(c) "Impact" refers to environmental impact.

(d) "Permit" means "license" (WAC 197-11-760).

(e) "Commenting" includes but is not synonymous with "consultation" (Part Five).

(f) "Environmental cost" refers to adverse environmental impact and may or may not be quantified.

(g) "EIS" refers to draft, final, and supplemental EISs (WAC 197-11-405 and 197-11-738).

(h) "Under" includes pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.

(3) In these rules:

(a) "Shall" is mandatory.

(b) "May" is optional and permissive and does *not* impose a requirement.

(c) "Include" means "include but not limited to."

(4) The following terms are synonymous:

(a) Effect and impact (WAC 197-11-752).

(b) Environment and environmental quality (WAC 197-11-740).

(c) Major and significant (WAC 197-11-764 and 197-11-794).

(d) Proposal and proposed action (WAC 197-11-784).

(e) Probable and likely (WAC 197-11-782).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-700, filed 2/10/84, effective 4/4/84.]

WAC 197-11-702 Act. "Act" means the State Environmental Policy Act, chapter 43.21C RCW, as amended, which is also referred to as "SEPA."

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-702, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-702, filed 2/10/84, effective 4/4/84.]

WAC 197-11-704 Action. (1) "Actions" include, *as further specified below*:

(a) New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;

(b) New or revised agency rules, regulations, plans, policies, or procedures; and

(c) Legislative proposals.

(2) Actions fall within one of two categories:

(a) **Project actions.** A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

(i) License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract.

(ii) Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

(b) **Nonproject actions.** Nonproject actions involve decisions on policies, plans, or programs.

(i) The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;

(ii) The adoption or amendment of comprehensive land use plans or zoning ordinances;

(iii) The adoption of any policy, plan, or program that will govern the development of a series of connected actions (WAC 197-11-060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;

(iv) Creation of a district or annexations to any city, town or district;

(v) Capital budgets; and

(vi) Road, street, and highway plans.

(3) "Actions" do not include the activities listed above when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions (certain categorical exemptions in Part Nine identify in more detail governmental activities that would not have any environmental impacts and for which SEPA review is not required).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-704, filed 2/10/84, effective 4/4/84.]

WAC 197-11-706 Addendum. "Addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. The term does not include supplemental EISs. An addendum may be used at any time during the SEPA process.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-706, filed 2/10/84, effective 4/4/84.]

WAC 197-11-708 Adoption. "Adoption" means an agency's use of all or part of an existing environmental document to meet all or part of the agency's responsibilities under SEPA to prepare an EIS or other environmental document.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-708, filed 2/10/84, effective 4/4/84.]

WAC 197-11-710 Affected tribe. Affected tribe or "treaty tribe" means any Indian tribe, band, nation or community in the state of Washington, that is federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-710, filed 2/10/84, effective 4/4/84.]

WAC 197-11-712 Affecting. "Affecting" means having, or may be having, an effect on (see WAC 197-11-752 on impacts). For purposes of deciding whether an EIS is required and what the EIS must cover, "affecting" refers to having probable, significant adverse environmental impacts (RCW 43.21C.031 and 43.21C.110 (1)(c)).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-712, filed 2/10/84, effective 4/4/84.]

WAC 197-11-714 Agency. (1) "Agency" means any state or local governmental body, board, commission, department, or officer authorized to make law, hear contested cases, or otherwise take the actions stated in WAC 197-11-704, except the judiciary and state legislature. An agency is any state agency (WAC 197-11-796) or local agency (WAC 197-11-762).

(2) "Agency with environmental expertise" means an agency with special expertise on the environmental impacts involved in a proposal or alternative significantly affecting the environment. These agencies are listed in WAC 197-11-920; the list may be expanded in agency procedures (WAC 197-11-906). The appropriate agencies must be consulted in the environmental impact statement process, as required by WAC 197-11-502.

(3) "Agency with jurisdiction" means an agency with authority to approve, veto, or finance all or part of a nonexempt proposal (or part of a proposal). The term does not include an agency authorized to adopt rules or standards of general applicability that could apply to a proposal, when no license or approval is required from the agency for the specific proposal. The term also does not include a local, state, or federal agency involved in approving a grant or loan, that serves only as a conduit between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are those from which a license or funding is sought or required.

(4) If a specific agency has been named in these rules, and the functions of that agency have changed or been transferred to another agency, the term shall mean any successor agency.

(5) For those proposals requiring a hydraulic project approval under RCW 75.20.100, both the department of game and the department of fisheries shall be considered agencies with jurisdiction.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-714, filed 2/10/84, effective 4/4/84.]

WAC 197-11-716 Applicant. "Applicant" means any person or entity, including an agency, applying for a license from an agency. Application means a request for a license.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-716, filed 2/10/84, effective 4/4/84.]

WAC 197-11-718 Built environment. "Built environment" means the elements of the environment as specified by RCW 43.21C.110 (1)(f) and WAC 197-11-444(2), which are generally built or made by people as contrasted with natural processes.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-718, filed 2/10/84, effective 4/4/84.]

WAC 197-11-720 Categorical exemption. "Categorical exemption" means a type of action, specified in these rules, which does not significantly affect the environment (RCW 43.21C.110 (1)(a)); categorical exemptions are found in Part Nine of these rules. Neither a threshold determination nor any environmental document, including an environmental checklist or environmental impact statement, is required for any categorically exempt action (RCW 43.21C.031). These rules provide for those circumstances in which a specific action that would fit within a categorical exemption shall not be considered categorically exempt (WAC 197-11-305).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-720, filed 2/10/84, effective 4/4/84.]

WAC 197-11-721 Closed record appeal. "Closed record appeal" means an administrative appeal held under chapter 36.70B RCW that is on the record to a county/city body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal arguments allowed. (RCW 36.70B.020(1).)

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-721, filed 10/10/97, effective 11/10/97.]

WAC 197-11-722 Consolidated appeal. "Consolidated appeal" means the procedure requiring a person to file an agency appeal challenging both procedural and substantive compliance with SEPA at the same time, as provided under RCW 43.21C.075 (3)(b) and the exceptions therein. If an agency does not have an appeal procedure for challenging either the agency's procedural or its substantive SEPA determinations, the appeal cannot be consolidated prior to any judicial review. The requirement for a consolidated appeal does not preclude agencies from bifurcating appeal proceedings and allowing different agency officials to hear different aspects of the appeal. (WAC 197-11-680.)

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-722, filed 2/10/84, effective 4/4/84.]

WAC 197-11-724 Consulted agency. "Consulted agency" means any agency with jurisdiction or expertise that is requested by the lead agency to provide information during the SEPA process.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-724, filed 2/10/84, effective 4/4/84.]

WAC 197-11-726 Cost-benefit analysis. "Cost-benefit analysis" means a quantified comparison of costs and benefits generally expressed in monetary or numerical terms. It is not synonymous with the weighing or balancing of environmental and other impacts or benefits of a proposal.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-726, filed 2/10/84, effective 4/4/84.]

WAC 197-11-728 County/city. (1) "County/city" means a county, city, or town. In this chapter, duties and powers are assigned to a county, city, or town as a unit. The delegation of responsibilities among the various departments of a county, city, or town is left to the legislative or charter authority of the individual counties, cities, or towns.

(2) A "GMA county/city" means a county, city, or town planning under the Growth Management Act.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-728, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-728, filed 2/10/84, effective 4/4/84.]

WAC 197-11-730 Decision maker. "Decision maker" means the agency official or officials who make the agency's decision on a proposal. The decision maker and responsible official are not necessarily synonymous, depending on the agency and its SEPA procedures (WAC 197-11-906 and 197-11-910).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-730, filed 2/10/84, effective 4/4/84.]

WAC 197-11-732 Department. "Department" means the Washington state department of ecology.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-732, filed 2/10/84, effective 4/4/84.]

WAC 197-11-734 Determination of nonsignificance (DNS). "Determination of nonsignificance" (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required (WAC 197-11-310 and 197-11-340). The DNS form is in WAC 197-11-970.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-734, filed 2/10/84, effective 4/4/84.]

WAC 197-11-736 Determination of significance (DS). "Determination of significance" (DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required (WAC 197-11-310 and 197-11-360). The DS form is in WAC 197-11-980 and must be used substantially in that form.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-736, filed 2/10/84, effective 4/4/84.]

WAC 197-11-738 EIS. "EIS" means environmental impact statement. The term "detailed statement" in RCW 43.21C.030 (2)(c) refers to a final EIS. The term "EIS" as used in these rules refers to draft, final, or supplemental EISs (WAC 197-11-405).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-738, filed 2/10/84, effective 4/4/84.]

WAC 197-11-740 Environment. "Environment" means, and is limited to, those elements listed in WAC 197-11-444, as required by RCW 43.21C.110 (1)(f). Environment

and environmental quality refer to the state of the environment and are synonymous as used in these rules and refer basically to physical environmental quality.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-740, filed 2/10/84, effective 4/4/84.]

WAC 197-11-742 Environmental checklist. "Environmental checklist" means the form in WAC 197-11-960. Rules for its use are in WAC 197-11-315.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-742, filed 2/10/84, effective 4/4/84.]

WAC 197-11-744 Environmental document. "Environmental document" means any written public document prepared under this chapter. Under SEPA, the terms environmental analysis, environmental study, environmental report, and environmental assessment do not have specialized meanings and do not refer to particular environmental documents (unlike various other state or federal environmental impact procedures).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-744, filed 2/10/84, effective 4/4/84.]

WAC 197-11-746 Environmental review. "Environmental review" means the consideration of environmental factors as required by SEPA. The "environmental review process" is the procedure used by agencies and others under SEPA for giving appropriate consideration to the environment in agency decision making.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-746, filed 2/10/84, effective 4/4/84.]

WAC 197-11-750 Expanded scoping. "Expanded scoping" is an optional process that may be used by agencies to go beyond minimum scoping requirements.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-750, filed 2/10/84, effective 4/4/84.]

WAC 197-11-752 Impacts. "Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in WAC 197-11-444.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-752, filed 2/10/84, effective 4/4/84.]

WAC 197-11-754 Incorporation by reference. "Incorporation by reference" means the inclusion of all or part of any existing document in an agency's environmental documentation by reference (WAC 197-11-600 and 197-11-635).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-754, filed 2/10/84, effective 4/4/84.]

WAC 197-11-756 Lands covered by water. "Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, marshes, and swamps. Certain categorical exemptions do not apply to lands covered by water, as specified in Part Nine.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-756, filed 2/10/84, effective 4/4/84.]

WAC 197-11-758 Lead agency. "Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements (WAC 197-11-050 and 197-11-922). The procedures for determining lead agencies are in Part Ten of these rules. "Lead agency" may be read as "responsible official" (WAC 197-11-788 and 197-11-910) unless the context clearly requires otherwise. Depending on the agency and the type of proposal, for example, there may be a difference between the lead agency's responsible official, who is at a minimum responsible for procedural determinations (such as WAC 197-11-330, 197-11-455, 197-11-460) and its decision maker, who is at a minimum responsible for substantive determinations (such as WAC 197-11-448, 197-11-655, and 197-11-660).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-758, filed 2/10/84, effective 4/4/84.]

WAC 197-11-760 License. "License" means any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule. A license includes all or part of an agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-760, filed 2/10/84, effective 4/4/84.]

WAC 197-11-762 Local agency. "Local agency" or "local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties and their legislative bodies. The term encompasses but does not refer specifically to the departments within a city or county.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-762, filed 2/10/84, effective 4/4/84.]

WAC 197-11-764 Major action. "Major action" means an action that is likely to have significant adverse environmental impacts. "Major" reinforces but does not have a meaning independent of "significantly" (WAC 197-11-794).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-764, filed 2/10/84, effective 4/4/84.]

WAC 197-11-766 Mitigated DNS. "Mitigated DNS" means a DNS that includes mitigation measures and is issued as a result of the process specified in WAC 197-11-350.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-766, filed 2/10/84, effective 4/4/84.]

WAC 197-11-768 Mitigation. "Mitigation" means:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(6) Monitoring the impact and taking appropriate corrective measures.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-768, filed 2/10/84, effective 4/4/84.]

WAC 197-11-770 Natural environment. "Natural environment" means those aspects of the environment contained in WAC 197-11-444(1), frequently referred to as natural elements, or resources, such as earth, air, water, wildlife, and energy.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-770, filed 2/10/84, effective 4/4/84.]

WAC 197-11-772 NEPA. "NEPA" means the National Environmental Policy Act of 1969 (42 USCA 4321 et seq.; PL 91-190), that is like SEPA at the federal level. The federal NEPA regulations are located at 40 CFR 1500 et seq.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-772, filed 2/10/84, effective 4/4/84.]

WAC 197-11-774 Nonproject. "Nonproject" means actions which are different or broader than a single site specific project, such as plans, policies, and programs (WAC 197-11-704).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-774, filed 2/10/84, effective 4/4/84.]

WAC 197-11-775 Open record hearing. "Open record hearing" means a hearing held under chapter 36.70B RCW and conducted by a single hearing body or officer authorized by the county/city to conduct such hearings, that creates the county's/city's record through testimony and submission of evidence and information, under procedures prescribed by the county/city by ordinance or resolution. An open record hearing may be held prior to a county's/city's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit. (RCW 36.70B.020(3).)

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-775, filed 10/10/97, effective 11/10/97.]

WAC 197-11-776 Phased review. "Phased review" means the coverage of general matters in broader environmental documents, with subsequent narrower documents concentrating solely on the issues specific to the later analysis (WAC 197-11-060(5)). Phased review may be used for a single proposal or EIS (WAC 197-11-060).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-776, filed 2/10/84, effective 4/4/84.]

WAC 197-11-778 Preparation. "Preparation" of an environmental document means preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements (see WAC 197-11-700(2)).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-778, filed 2/10/84, effective 4/4/84.]

WAC 197-11-780 Private project. "Private project" means any proposal primarily initiated or sponsored by an individual or entity other than an agency.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-780, filed 2/10/84, effective 4/4/84.]

WAC 197-11-782 Probable. "Probable" means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment" (see WAC 197-11-794). Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-782, filed 2/10/84, effective 4/4/84.]

WAC 197-11-784 Proposal. "Proposal" means a proposed action. A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. A proposal exists at that stage in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated. (See WAC 197-11-055 and 197-11-060(3).) A proposal may therefore be a particular or preferred course of action or several alternatives. For this reason, these rules use the phrase "alternatives including the proposed action." The term "proposal" may therefore include "other reasonable courses of action," if there is no preferred alternative and if it is appropriate to do so in the particular context.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-784, filed 2/10/84, effective 4/4/84.]

WAC 197-11-786 Reasonable alternative. "Reasonable alternative" means an action that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. (See WAC 197-11-440(5) and 197-11-660.) Also see the definition of "scope" for the three types of alternatives to be analyzed in EISs (WAC 197-11-792).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-786, filed 2/10/84, effective 4/4/84.]

WAC 197-11-788 Responsible official. "Responsible official" means that officer or officers, committee, department, or section of the lead agency designated by agency SEPA procedures to undertake its procedural responsibilities as lead agency (WAC 197-11-910).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-788, filed 2/10/84, effective 4/4/84.]

WAC 197-11-790 SEPA. "SEPA" means the State Environmental Policy Act (chapter 43.21C RCW), which is also referred to as the act. The "SEPA process" means all measures necessary for compliance with the act's requirements.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-790, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-790, filed 2/10/84, effective 4/4/84.]

WAC 197-11-792 Scope. (1) "Scope" means the range of proposed actions, alternatives, and impacts to be analyzed in an environmental document (WAC 197-11-060(2)).

(2) To determine the scope of environmental impact statements, agencies consider three types of actions, three types of impacts, and three types of alternatives.

(a) *Actions* may be:

(i) Single (a specific action which is not related to other proposals or parts of proposals);

(ii) Connected (proposals or parts of proposals which are closely related under WAC 197-11-060(3) or 197-11-305(1)); or

(iii) Similar (proposals that have common aspects and may be analyzed together under WAC 197-11-060(3)).

(b) *Alternatives* may be:

(i) No action;

(ii) Other reasonable courses of action; or

(iii) Mitigation measures (not in the proposed action).

(c) *Impacts* may be:

(i) Direct;

(ii) Indirect; or

(iii) Cumulative.

(3) WAC 197-11-060 provides general rules for the content of any environmental review under SEPA; Part Four and WAC 197-11-440 provide specific rules for the content of EISs. The scope of an individual statement may depend on its relationship with other EISs or on phased review.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-792, filed 2/10/84, effective 4/4/84.]

WAC 197-11-793 Scoping. "Scoping" means determining the range of proposed actions, alternatives, and impacts to be discussed in an EIS. Because an EIS is required to analyze significant environmental impacts only, scoping is intended to identify and narrow the EIS to the significant issues. The required scoping process (WAC 197-11-408) provides interagency and public notice of a DS, or equivalent notification, and opportunity to comment. The lead agency has the option of expanding the scoping process (WAC 197-11-410), but shall not be required to do so. Scoping is used to encourage cooperation and early resolution of potential conflicts, to improve decisions, and to reduce paperwork and delay.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-793, filed 2/10/84, effective 4/4/84.]

WAC 197-11-794 Significant. (1) "Significant" as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

(2) Significance involves context and intensity (WAC 197-11-330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.

The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

(3) WAC 197-11-330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-794, filed 2/10/84, effective 4/4/84.]

WAC 197-11-796 State agency. "State agency" means any state board, commission, department, or officer, including state universities, colleges, and community colleges, that is authorized by law to make rules, hear contested cases, or otherwise take the actions stated in WAC 197-11-704, except the judiciary and state legislature.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-796, filed 2/10/84, effective 4/4/84.]

WAC 197-11-797 Threshold determination. "Threshold determination" means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt (WAC 197-11-310 and 197-11-330 (1)(b)).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-797, filed 2/10/84, effective 4/4/84.]

WAC 197-11-799 Underlying governmental action. "Underlying government action" means the governmental action, such as zoning or permit approvals, that is the subject of SEPA compliance.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-799, filed 2/10/84, effective 4/4/84.]

PART NINE - CATEGORICAL EXEMPTIONS

WAC 197-11-800 Categorical exemptions. The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

(1) **Minor new construction—Flexible thresholds.**

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than

one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

(i) The construction or location of any residential structures of four dwelling units.

(ii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iii) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles.

(iv) The construction of a parking lot designed for twenty automobiles.

(v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(c) Cities, towns or counties may raise the exempt levels to the maximum specified below by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904) and sent to the department of ecology. A newly established exempt level shall be supported by local conditions, including zoning or other land use plans or regulations. An agency may adopt a system of several exempt levels (such as different levels for different geographic areas). The maximum exempt level for the exemptions in (1)(b) of this section shall be, respectively:

(i) 20 dwelling units.

(ii) 30,000 square feet.

(iii) 12,000 square feet; 40 automobiles.

(iv) 40 automobiles.

(v) 500 cubic yards.

(2) **Other minor new construction.** The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:

(a) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(b) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(c) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catch basins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(d) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(e) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(f) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance.

(g) The installation of impervious underground tanks, having a capacity of 10,000 gallons or less.

(h) The vacation of streets or roads.

(i) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(j) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(3) **Repair, remodeling and maintenance activities.** The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging;

(b) Reconstruction/maintenance of groins and similar shoreline protection structures; or

(c) Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

(4) **Water rights.** Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit

required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

(5) **Purchase or sale of real property.** The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use.

(c) The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

(6) **Minor land use decisions.** The following land use decisions shall be exempt:

(a) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection.

(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(7) **Open burning.** Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(8) **Clean Air Act.** The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(9) **Water quality certifications.** The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.

(10) **Activities of the state legislature.** All actions of the state legislature are exempted. This subsection does not exempt the proposing of legislation by an agency (WAC 197-11-704).

(11) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat.

(h) All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) **Local improvement districts.** The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and 197-11-880.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC 197-11-070.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.

(20) **Building codes.** The adoption by ordinance of all codes as required by the state Building Code Act (chapter 19.27 RCW).

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the department of ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station or well: Provided, That additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

(25) **Personal wireless service facilities.**

(a) The siting of personal wireless service facilities are exempt if the facility:

(i) Is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;

(ii) Includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agriculture zone; or

(iii) Involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

(b) For the purposes of this subsection:

(i) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(iii) "Microcell" means a wireless communication facility consisting of an antenna that is either:

(A) Four feet in height and with an area of not more than five hundred eighty square inches; or

(B) If a tubular antenna, no more than four inches in diameter and no more than six feet in length.

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-800, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-800, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-800, filed 2/10/84, effective 4/4/84.]

WAC 197-11-810 Exemptions and nonexemptions applicable to specific state agencies. The exemptions in WAC 197-11-820 through 197-11-875 relate only to the specific activities identified within the named agencies. These exemptions are in addition to the preceding sections of this part and are subject to the rules and limitations of WAC 197-11-305. The categorical exemptions in WAC 197-11-800 apply to all agencies, including those named in WAC 197-11-820 through 197-11-875 unless the general exemptions are specifically made inapplicable by one of the following exemptions.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-810, filed 2/10/84, effective 4/4/84.]

WAC 197-11-820 Department of licensing. All licenses required under programs administered by the department of licensing as of December 12, 1975 are exempted, except the following:

(1) Camping club promotional permits under chapter 19.105 RCW.

(2) Motor vehicle wrecker licenses under chapter 46.80 RCW; WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-820, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-820, filed 2/10/84, effective 4/4/84.]

WAC 197-11-825 Department of labor and industries. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives under chapter 70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-825, filed 2/10/84, effective 4/4/84.]

WAC 197-11-830 Department of natural resources. The following actions and licenses of the department of natural resources are exempted:

(1) Forest closures, shutdowns and permit suspensions due to extreme unusual fire hazards.

(2) Operating permits to use power equipment on forest land.

(3) Permits to use fuse on forest land.

(4) Log patrol licenses.

(5) Permits for drilling for which no public hearing is required under RCW 79.76.070 (geothermal test drilling).

(6) Permits for the dumping of forest debris and wood waste in forested areas.

(7) Those sales of timber from public lands that the department of natural resources determines, by rules adopted pursuant to RCW 43.21C.120 do not have potential for a substantial impact on the environment.

(8) Except on aquatic lands under state control, leases for mineral prospecting under RCW 79.01.616 or 79.01.652, but not including issuance of subsequent contracts for mining.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-830, filed 2/10/84, effective 4/4/84.]

WAC 197-11-835 Department of fisheries. The following activities of the department of fisheries are exempted:

(1) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.

(2) All hydraulic project approvals (RCW 75.20.100) for activities incidental to a Class I, II, III forest practice as defined in RCW 76.09.050 or regulations thereunder.

(3) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of game) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels which have been naturally abandoned within the twelve months previous to the hydraulic permit application.

(4) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.

(5) All other licenses (other than those excepted in (2) and (3) above) authorized to be issued by the department as of December 12, 1975 except the following:

(a) Fish farming license, or other licenses allowing the cultivation of aquatic animals for commercial purposes;

(b) Licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and,

(c) Any license authorizing the discharge of explosives in water. WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of the above licenses.

(6) The routine release of hatchery fish or the reintroduction of endemic or native species into their historical habitat where only minor documented effects on other species will occur.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-835, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-835, filed 2/10/84, effective 4/4/84.]

WAC 197-11-840 Department of game. The following activities of the department of game are exempted:

(1) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.

(2) The issuance of falconry permits.

(3) The issuance of all hunting or fishing licenses, permits or tags.

(4) Artificial game feeding.

(5) The issuance of scientific collector permits.

(6) All hydraulic project approvals (RCW 75.20.100) for activities incidental to a Class I, II, III forest practice as defined in RCW 76.09.050 and regulations thereunder.

(7) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of fisheries) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels that have been naturally abandoned within the twelve months previous to the hydraulic permit application.

(8) The routine release or transfer of hatchery fish, game birds, and animals or the reintroduction of endemic or native species into their historical habitat, where only minor documented effects on other species will occur.

(9) Minor repair work to be done by hand tools. Examples include:

(a) Maintenance of fish screen or intake structures; or

(b) Silt and debris removal from boat launches, docks, and piers.

(10) Collection of game fish and wildlife for research.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-840, filed 2/10/84, effective 4/4/84.]

WAC 197-11-845 Department of social and health services. All actions under programs administered by the department of social and health services as of December 12, 1975, are exempted, except the following:

(1) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material under RCW 70.98.080, except that the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities or their tailings areas whose products or byproducts have concentrations of naturally occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250, shall not be exempt.

(2) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units under WAC 248-54-065.

(3) The approval of engineering reports or plans and specifications under WAC 248-54-085 and 248-54-095, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.

(4) The approval of an application for a certificate of need under RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(5) The approval of an application for any system of sewerage and/or water general plan or amendments under RCW 36.94.100.

(6) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department under WAC 248-92-040.

(7) The construction of any building, facility or other installation not exempt by WAC 197-11-800 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

(8) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of

a private psychiatric hospital pursuant to WAC 248-22-005 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-845, filed 2/10/84, effective 4/4/84.]

WAC 197-11-850 Department of agriculture. All actions under programs administered by the department of agriculture as of December 12, 1975 are exempted, except for the following:

(1) The approval of any application for a commercial registered feedlot, quarantined registered feedlot under chapter 16.36 RCW, or chapters 16-28 and 16-30 WAC.

(2) The issuance or amendment of any regulation respecting restricted-use pesticides under chapter 15.58 RCW that would have the effect of allowing the use of a pesticide previously prohibited by Washington state.

(3) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users, unless the pesticide is no longer manufactured and is not available.

(4) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established under WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certificate, or an applicator operator license, unless the pesticide is no longer manufactured and is not available.

(5) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-165 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license, unless the pesticide is no longer manufactured and is not available.

(6) The approval of any use of the pesticide DDT or DDD except for those uses approved by the centers for disease control of the United States Department of Health and Human Services (such as control of rabid bats).

(7) The issuance of a license to operate a public livestock market under RCW 16.65.030.

(8) The provisions of WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of the licenses in (1) through (7) above.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-850, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-850, filed 2/10/84, effective 4/4/84.]

WAC 197-11-855 Department of ecology. The following activities of the department of ecology shall be exempt:

(1) Review of comprehensive solid waste management plans under RCW 70.95.100 and 70.95.110.

(2) Granting or denial of certification of consistency pursuant to the Federal Coastal Zone Management Act (16 U.S.C. 1451).

(3) Issuance of short-term water quality standards modification, pursuant to chapter 173-201 WAC, for minor projects when the water violations would:

(a) Result in turbidity violations only;

(b) Be less than fourteen days duration;

(c) Be mitigated by a current hydraulic project approval conditioned to protect the fishery resource; and

(d) Not significantly impair beneficial uses of the affected water body.

(4) Approval of engineering reports when such approval allows preparation of plans and specifications, but not when it would commit the department to approving the final proposal.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-855, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-855, filed 2/10/84, effective 4/4/84.]

WAC 197-11-860 Department of transportation. The following activities of the department of transportation shall be exempt:

(1) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 U.S.C. 402;

(2) Issuance of road approach permits and right of way rental agreements;

(3) Establishment and changing of speed limits of 55 miles per hour or less;

(4) Revisions of existing access control involving a single property owner;

(5) Issuance of a "motorist information signing permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;

(6) Issuance of permits for special units relative to state highways;

(7) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;

(8) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; and

(9) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-860, filed 2/10/84, effective 4/4/84.]

WAC 197-11-865 Utilities and transportation commission. All actions of the utilities and transportation commission under statutes administered as of December 12, 1975, are exempted, except the following:

(1) Issuance of common carrier motor freight authority under chapter 81.80 RCW that would authorize a new service, or extend an existing transportation service in the fields of petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives, or corrosives;

(2) Authorization of the openings or closing of any highway/railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;

(3) Regulation of oil and gas pipelines under chapter 81.88 RCW; and

(4) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 197-11-

800, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-865, filed 2/10/84, effective 4/4/84.]

WAC 197-11-870 Department of commerce and economic development. The following activities of the department of commerce and economic development shall be exempt:

(1) The provisions of business consulting and advisory services that include tourist promotion under RCW 43.31.050.

(2) The promotion and development of foreign trade under RCW 43.31.370.

(3) The furnishing of technical and information services under RCW 43.31.060.

(4) The provision of technical assistance to applicants for loans and aid and/or grants by the community of economic revitalization board under chapter 43.160 RCW.

(5) The conduct of research and economic analysis under RCW 43.31.070, including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under RCW 43.31.160, 43.31.200 and 43.31.210.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-870, filed 2/10/84, effective 4/4/84.]

WAC 197-11-875 Other agencies. Except for building construction (the majority of which is undertaken through the department of general administration), all activities of the following state agencies under programs they administer as of December 12, 1975, are exempted:

(1) Office of the attorney general.

(2) Office of the auditor.

(3) Department of employment security.

(4) Office of the insurance commissioner and state fire marshal.

(5) Department of personnel.

(6) Department of printing.

(7) Department of revenue.

(8) Office of the secretary of state.

(9) Office of the treasurer.

(10) Arts commission.

(11) Washington state patrol.

(12) Interagency committee for outdoor recreation.

(13) Department of emergency services.

(14) Department of general administration, division of banking and division of savings and loan associations.

(15) Forest practices appeals board.

(16) Public employees' retirement system.

(17) Law enforcement officers' and firefighters' retirement board.

(18) Volunteer fireman's retirement system board.

(19) State department of retirement systems.

(20) Teachers' retirement system board.

(21) Higher education personnel board.

(22) Commission for vocational education.

(23) State energy office.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-875, filed 2/10/84, effective 4/4/84.]

WAC 197-11-880 Emergencies. Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-880, filed 2/10/84, effective 4/4/84.]

WAC 197-11-890 Petitioning DOE to change exemptions. (1) Except for the preceding section, agencies may create additional exemptions in their procedures only after receiving approval from the department of ecology under this section.

(2) An agency may petition the department to adopt additional exemptions or to delete existing exemptions by amending these rules. The petition shall be made under RCW 34.05.330. The petition shall state the language of the requested amendment, the petitioning agency's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the petitioning agency over a particular period of time. The department shall consider and decide upon a petition within sixty days of receipt. If the determination is favorable, the department shall begin rule making under chapter 34.05 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. Affected agencies shall amend their procedures accordingly.

(3) An agency may also petition the department for an immediate ruling upon any request to add, delete, or change an exemption. If such a petition is granted, the department will notify the petitioning agency, which may immediately include the change approved by the department in its own procedures. The department may thereafter begin rule making proceedings to amend these rules. Until these rules are amended, any change granted under this subsection shall apply only to the petitioning agency or agencies.

(4) The department will provide public notice of any proposed amendments to these rules in the manner required by the Administrative Procedure Act, chapter 34.05 RCW. A copy of all approvals by the department under the preceding subsection shall be given to any person requesting the department for advance notice of rule making.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-890, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-890, filed 2/10/84, effective 4/4/84.]

PART TEN - AGENCY COMPLIANCE

WAC 197-11-900 Purpose of this part. The purpose of this part is to:

(1) Require each agency to adopt its own rules and procedures to carry out SEPA and ensure that agency rules and procedures shall have the force and effect of law and shall be consistent with these uniform statewide rules.

(2) Require agencies to include certain items in their rules.

(3) Ensure the documents prepared under the act are available to the public.

(4) Identify agencies with environmental expertise.

(5) Provide rules for determining the lead agency.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-900, filed 2/10/84, effective 4/4/84.]

WAC 197-11-902 Agency SEPA policies. (1) The act and these rules allow agencies to condition or deny proposals if such action is based upon policies identified by the appropriate governmental authority. These policies must be incorporated into regulations, plans, or codes formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of substantive authority under SEPA. (RCW 43.21C.060; WAC 197-11-660.) State and local policies so designated are called "agency SEPA policies" in these rules.

(2) Agencies are required to designate their SEPA policies not later than one hundred eighty days after the effective date of these rules (or the creation of the agency). In order to condition or deny a proposal, an agency must comply with the provisions of RCW 43.21C.060 and WAC 197-11-660. If an agency has already formally designated agency SEPA policies that meet the requirements of the act and these rules, the agency is not required to adopt them again. Agencies may revise or add to their SEPA policies at any time. Although agency SEPA procedures cannot change the provisions of these rules concerning substantive authority and mitigation (WAC 197-11-906(2)), agency SEPA policies are encouraged to identify specific mitigation measures or techniques.

(3) An agency's document that includes or references by citation their agency SEPA policies (WAC 197-11-660(3)) may be included in agency SEPA procedures (WAC 197-11-904). Public notice and opportunity for public comment shall be provided as part of the agency process for formally designating its SEPA policies.

(4) Depending on their content, the formal designation of agency SEPA policies will not necessarily require any environmental review and will normally be categorically exempt as a procedural action under WAC 197-11-800(19). For example, the policies may merely compile, reorganize, or reference laws or policies currently on the books, or may otherwise be procedural in nature, such as requiring decision makers to consider certain factors.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-902, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-902, filed 2/10/84, effective 4/4/84.]

WAC 197-11-904 Agency SEPA procedures. (1) Each agency is required by the act and this section to adopt its own rules and procedures for implementing SEPA. (RCW 43.21C.120.) Agencies may revise or add to their SEPA procedures at any time. Agencies may adopt these rules (chapter 197-11 WAC) by reference, and shall meet the requirements of WAC 197-11-906 concerning the content of their procedures. State and local rules for carrying out SEPA procedures are called "agency SEPA procedures."

(2) State agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of an agency, whichever shall occur later. State agencies shall adopt their procedures by rule making under the state Administrative Procedure Act, chapter 34.05 RCW. If a state agency does not have rule making authority under chapter 34.05 RCW, the agency shall adopt procedures under whatever authority it has, and public notice and opportunity for public comment shall be provided. Adoption shall be deemed to have taken place at the time the transmittal of adopted rules is filed with the code reviser.

(3) Local agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of the local governmental entity, whichever shall occur later. Local agencies shall adopt their procedures by rule, ordinance, or resolution, whichever is appropriate, to ensure that the procedures have the full force and effect of law. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting its SEPA procedures.

(4) Any agency determining that all actions it is authorized to take are exempt under Part Nine of these rules may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under this chapter. Adoption of such a statement under the procedures in subsections (2) and (3) shall be deemed to be in compliance with the requirement that the agency adopt procedures under this chapter.

(5) The adoption of agency procedures is procedural and shall be categorically exempt under this chapter (WAC 197-11-800(19)).

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-904, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-904, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-904, filed 2/10/84, effective 4/4/84.]

WAC 197-11-906 Content and consistency of agency procedures. (1)(a) Agency SEPA policies and procedures shall implement and be consistent with the rules in this chapter. Unless optional or permissive (see WAC 197-11-704), all of the provisions of this chapter are mandatory, and agency procedures shall incorporate these rules and criteria.

(b) Permissive and optional rules shall *not* be construed as mandatory requirements. Rules giving encouragement or guidance shall also not be construed as mandatory. The decision on whether to apply an optional provision rests with the responsible official.

(c) Except as stated in the next subsection, the rules in this chapter are not exclusive, and agencies may add procedures and criteria. However, any additional material shall not be inconsistent with, contradict, or make compliance with any provision of these rules a practical impossibility. Any additional material shall be consistent with SEPA.

(d) Agency procedures shall also include the procedures required by sections WAC 197-11-055 (3)(a) and (4), 197-11-420 (1) and (4), and 197-11-910.

(e) Agency procedures may include procedures under WAC 197-11-055 (2) and (7), 197-11-100(3), 197-11-680, 197-11-714(2), 197-11-800(1), and 197-11-908. Any such procedures shall include the content required by those rules.

(2) The following provisions of this chapter are exclusive and may not be added to or changed in agency procedures:

(a) The definitions of "proposal," "major," "action," "significant," "affecting," "environment," "categorical exemption," "agencies with jurisdiction," "lands covered by water," "built environment," "natural environment," "license," "licensing," "mitigation," and "scope";

(b) The criteria for lead agency determination (Part Ten of these rules);

(c) The categorical exemptions in Part Nine of these rules, unless expressly allowed under Part Nine;

(d) The information allowed to be required of applicants under WAC 197-11-080, 197-11-100, 197-11-335, and 197-11-420;

(e) The requirements for the style and size of an EIS (WAC 197-11-425);

(f) The list of elements of the environment (WAC 197-11-444); and

(g) The provisions on substantive authority and mitigation in WAC 197-11-660.

(3) The following provisions of this chapter may not be changed, but may be added to; any additions shall meet the criteria for additional material stated in subsection (1)(c) of this section:

(a) All other definitions in Part Eight of these rules;

(b) The provisions in Parts Four and Five of these rules, except as necessary to be grammatically incorporated into agency procedures;

(c) The contents of agency SEPA procedures (WAC 197-11-906); and

(d) The list of agencies with environmental expertise (WAC 197-11-920).

(4) The forms in Part Eleven shall be used substantially as set forth. Minor changes are allowed to make the forms more useful to agencies, applicants, and the public, as long as the changes do not eliminate requested information or impose burdens on applicants. The questions in Part Two of the environmental checklist shall not be altered.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-906, filed 2/10/84, effective 4/4/84.]

WAC 197-11-908 Critical areas. (1) Each county/city may select certain categorical exemptions that do not apply in one or more critical areas designated in a critical areas ordinance adopted under GMA (RCW 36.70A.060). The selection of exemptions that will not apply may be made from the following subsections of WAC 197-11-800: (1), (2)(a) through (h), (3), (5), (6)(a), (13)(c), (23)(a) through (g), and (24)(c), (e), (g), (h).

The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

All other categorical exemptions apply whether or not the proposal will be located within a critical area. Exemptions selected by an agency under this section shall be listed in the agency's SEPA procedures (WAC 197-11-906).

(2) Proposals that will be located within critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in a critical area.

[Statutory Authority: RCW 43.21A.090, chapter 43.21C RCW, RCW 43.21C.035, 43.21C.037, 43.21C.038, 43.21C.0381, 43.21C.0382, 43.21C.0383, 43.21C.110, 43.21C.222. 03-16-067 (Order 02-12), § 197-11-908, filed 8/1/03, effective 9/1/03. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-908, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-908, filed 2/10/84, effective 4/4/84.]

WAC 197-11-910 Designation of responsible official. Agency SEPA procedures shall designate or provide a method of designating the responsible official with speed and certainty (WAC 197-11-906 (1)(d)). This designation may vary depending upon the nature of the proposal. The responsible official shall carry out the duties and functions of the agency when it is acting as the lead agency under these guidelines. Since it is possible under these rules for an agency to be acting as a lead agency prior to actually receiving an application for a license to undertake a private project, designation of the first department within the agency to receive an application as the responsible official will not be sufficient.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-910, filed 2/10/84, effective 4/4/84.]

WAC 197-11-912 Procedures of consulted agencies. Each agency shall develop internal procedures, manuals, or guidance for providing responses to consultation requests from other agencies pertaining to threshold investigations, the scoping process, or EISs. Such procedures shall ensure that the agency will comply with the requirements of Part Five of these rules. It is recommended that these procedures be integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-912, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-912, filed 2/10/84, effective 4/4/84.]

WAC 197-11-914 SEPA fees and costs. (1) Except for the costs allowed by this chapter (see, for example, sections WAC 197-11-080, 197-11-100, 197-11-340 (3)(a), 197-11-420(4), 197-11-440 (2)(l), 197-11-504, 197-11-508, 197-11-570, 197-11-600 (3)(c) pertaining to the cost of preparing environmental documents), these rules neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance.

(2) A person required to pay an impact fee for system improvements under RCW 82.02.050 through 82.02.090 shall not be required to pay a fee under SEPA for the same system improvements.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-914, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-914, filed 2/10/84, effective 4/4/84.]

WAC 197-11-916 Application to ongoing actions. (1) Agency SEPA procedures shall apply to any proposal initiated after the effective date of the lead agency's SEPA procedures or those of the agency proposing the action.

(2) For proposals made before the effective date of revised lead agency SEPA procedures, the revised procedures shall apply to those elements of SEPA compliance initiated after the procedures went into effect. Agency procedures adopted under RCW 43.21C.120 and these rules shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed before the effective date of the procedures of the lead agency or of the agency proposing the action.

(3) Agencies are responsible for compliance with any statutory requirements that went into effect before the adoption of these rules and agency SEPA procedures (for example, the statutory requirements for appeals).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-916, filed 2/10/84, effective 4/4/84.]

WAC 197-11-917 Relationship to chapter 197-10 WAC. Chapter 197-10 WAC, the original SEPA guidelines, has not been repealed because the existing guidelines of many agencies adopt portions of chapter 197-10 WAC by reference. Chapter 197-10 WAC also continues to apply for the next one hundred eighty days if an agency has not adopted procedures implementing SEPA (WAC 197-10-900(2) and 197-11-904). The department of ecology intends to repeal chapter 197-10 WAC one hundred eighty days after the effective date of chapter 197-11 WAC.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-917, filed 2/10/84, effective 4/4/84.]

WAC 197-11-918 Lack of agency procedures. If an agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the one hundred eighty-day time period required by RCW 43.21C.120, the rules in this chapter shall be applied as practicable to the actions of such agency.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-918, filed 2/10/84, effective 4/4/84.]

WAC 197-11-920 Agencies with environmental expertise. The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

(1) Air quality.

(a) Department of ecology.

(b) Department of natural resources (only for burning in forest areas).

(c) Department of social and health services.

(d) Regional air pollution control authority or agency.

(2) Water resources and water quality.

(a) Department of game.

(b) Department of ecology.

(c) Department of natural resources (state-owned tidelands, shorelands, harbor areas or beds of navigable waters).

(d) Department of social and health services (public water supplies, sewer systems, shellfish habitats).

(e) Department of fisheries.

(3) Hazardous and toxic substances (including radiation).

(a) Department of ecology.

(b) Department of social and health services.

(c) Department of agriculture (foods or pesticides).

(d) Department of fisheries (introduction into waters).

(e) Department of game (introduction into waters).

(4) Solid and hazardous waste.

(a) Department of ecology.

(b) Department of fisheries (dredge spoils).

(c) Department of social and health services.

(d) Department of game (dredge spoils).

(5) Fish and wildlife.

(a) Department of game.

(b) Department of fisheries.

(6) Natural resources development.

(a) Department of commerce and economic development.

(b) Department of ecology.

(c) Department of natural resources.

(d) Department of fisheries.

(e) Department of game.

(7) Energy production, transmission and consumption.

(a) Department of ecology.

(b) Department of natural resources (geothermal, coal, uranium).

(c) State energy office.

(d) Energy facility site evaluation council.

(e) Utilities and transportation commission.

(8) Land use and management.

(a) Department of commerce and economic development.

(b) Department of ecology.

(c) Department of fisheries (affecting surface or marine waters).

(d) Department of natural resources (tidelands, shorelands, or state-owned or managed lands).

(e) Planning and community affairs agency.

(f) Department of game.

(9) Noise.

(a) Department of ecology.

(b) Department of social and health services.

(10) Recreation.

(a) Department of commerce and economic development.

(b) Department of game.

(c) Department of fisheries.

(d) Parks and recreation commission.

(e) Department of natural resources.

(11) Archaeological/historical.

(a) Office of archaeology and historic preservation.

(b) Washington State University at Pullman (Washington archaeological research center).

(12) Transportation.

(a) Department of transportation.

(b) Utilities and transportation commission.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-920, filed 2/10/84, effective 4/4/84.]

WAC 197-11-922 Lead agency rules. The rules for deciding when and how an agency is the lead agency (WAC 197-11-050) are contained in this part. The method and criteria for lead agency selection are in WAC 197-11-924. Lead agency rules for different types of proposals as well as for specific proposals are in WAC 197-11-926 through 197-11-940. Rules for interagency agreements are in WAC 197-11-942 through 197-11-944. Rules for asking the department of ecology to resolve lead agency disputes are in WAC 197-11-946. Rules for the assumption of lead agency status by another agency with jurisdiction are in WAC 197-11-948.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-922, filed 2/10/84, effective 4/4/84.]

WAC 197-11-924 Determining the lead agency. (1) The first agency receiving an application for or initiating a nonexempt proposal shall determine the lead agency for that proposal, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in WAC 197-11-926 through 197-11-944.

(2) If an agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and an explanation. If the agency receiving this determination agrees that it is the lead agency, it shall notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition the department of ecology for a lead agency determination under WAC 197-11-946.

(3) Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition the department for a lead agency determination within fifteen days of receiving the determination.

(4) An applicant may also petition the department to resolve the lead agency dispute under WAC 197-11-946.

(5) To make the lead agency determination, an agency must determine to the best of its ability the range of proposed actions for the proposal (WAC 197-11-060) and the other agencies with jurisdiction over some or all of the proposal. This can be done by:

(a) Describing or requiring an applicant to describe the main features of the proposal;

(b) Reviewing the list of agencies with expertise;

(c) Contacting potential agencies with jurisdiction either orally or in writing.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-924, filed 2/10/84, effective 4/4/84.]

WAC 197-11-926 Lead agency for governmental proposals. (1) When an agency initiates a proposal, it is the lead agency for that proposal. If two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

(2) Whenever possible, agency people carrying out SEPA procedures should be different from agency people making the proposal.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-926, filed 2/10/84, effective 4/4/84.]

WAC 197-11-928 Lead agency for public and private proposals. When the proposal involves both private and public activities, it shall be characterized as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in which agency and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined under WAC 197-11-926.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-928, filed 2/10/84, effective 4/4/84.]

WAC 197-11-930 Lead agency for private projects with one agency with jurisdiction. For proposed private projects for which there is only one agency with jurisdiction, the lead agency shall be the agency with jurisdiction.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-930, filed 2/10/84, effective 4/4/84.]

WAC 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city. For proposals for private projects that require nonexempt licenses from more than one agency, when at least one of the agencies requiring such a license is a county/city, the lead agency shall be that county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-932, filed 2/10/84, effective 4/4/84.]

WAC 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies. When a proposed private project requires nonexempt licenses only from a local agency other than a county/city and one or more state agencies, the lead agency shall be the local agency.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-934, filed 2/10/84, effective 4/4/84.]

WAC 197-11-936 Lead agency for private projects requiring licenses from more than one state agency. (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

(a) Department of ecology.

(b) Department of social and health services.

(c) Department of natural resources.

(d) Department of fisheries.

(e) Department of game.

(f) Utilities and transportation commission.

(g) Department of motor vehicles.

(h) Department of labor and industries.

(2) When none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency that has the largest biennial appropriation.

(3) When, under subsection (1), an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-936, filed 2/10/84, effective 4/4/84.]

WAC 197-11-938 Lead agencies for specific proposals. Notwithstanding the lead agency designation criteria contained in WAC 197-11-926 through 197-11-936, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC); however, for any public project requiring such certification and for which the study under RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

(2) For all private projects relating to the use of geothermal resources under chapter 79.76 RCW, the lead agency shall be the department of natural resources.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee under chapter 78.52 RCW, the lead agency shall be the department of natural resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be either the department of natural resources or the city/county where the project is located, as set forth below:

(a) The interagency agreements authorized by WAC 222-50-030 between the department of natural resources and other governmental agencies may be used to identify SEPA lead agency status for forest practice applications. If used, this agreement shall meet the requirements for a lead agency agreement in WAC 197-11-942.

(b) If no interagency agreement exists, the SEPA lead agency determination shall be based on information in the environmental checklist required as part of the forest practice application requiring SEPA review. The applicant shall, as part of the checklist, submit all information on future plans for conversion, and shall identify any known future license requirements.

(c) For any proposal involving forest practices (i) on lands platted after January 1, 1960, (ii) on lands beings converted to another use, or (iii) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, the applicable county or city is the lead agency if the county or city will require a license for the proposal. Upon receipt of a forest practice application and environmental checklist, natural resources shall determine lead agency for the proposal. If insufficient information is available to identify necessary permits, natural resources shall ask the applicant for additional information. If a permit is not required from the city/county, natural resources shall be lead agency. If a city/county permit is required, natural resources shall send copies of the environmental checklist and forest practice application together with the determination of the lead agency to the city/county.

(d) Upon receipt and review of the environmental checklist and forest practice application, the city/county shall within ten business days:

(i) Agree that a city/county license is required, either now or at a future point, and proceed with environmental review as lead agency.

(ii) Determine that a license is not required from the city/county, and notify natural resources that the city/county is not lead agency; or

(iii) Determine there is insufficient information in the environmental checklist to identify the need for a license, and either:

(A) Assume lead agency status and conduct appropriate environmental analysis for the total proposal;

(B) Request additional information from the applicant; or

(C) Notify natural resources of the specific additional information needed to determine permit requirements, who shall request the information from the applicant.

(5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question; however, this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

(6) For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology, when a National Pollutant Discharge Elimination System (NPDES) permit is required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

(7) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(8) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.

(9) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(10) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(11) For proposed metal mining and milling operations regulated by chapter 78.56 RCW, except for uranium and thorium operations regulated under Title 70 RCW, the lead agency shall be the department of ecology.

(12) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-938, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-938, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-938, filed 2/10/84, effective 4/4/84.]

WAC 197-11-940 Transfer of lead agency status to a state agency. For any proposal for a private project where a city or town with a population of under five thousand or a county with a population under eighteen thousand would be the lead agency under WAC 197-11-928 through 197-11-938, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-940, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-940, filed 2/10/84, effective 4/4/84.]

WAC 197-11-942 Agreements on lead agency status. Any agency may assume lead agency status if all agencies with jurisdiction agree.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-942, filed 2/10/84, effective 4/4/84.]

WAC 197-11-944 Agreements on division of lead agency duties. Two or more agencies may by agreement share or divide the responsibilities of lead agency through any arrangement agreed upon. In such event, however, the agencies involved shall designate one of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these rules. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-944, filed 2/10/84, effective 4/4/84.]

WAC 197-11-946 DOE resolution of lead agency disputes. (1) If the agencies with jurisdiction are unable to determine which agency is the lead agency under the rules, any agency with jurisdiction may petition the department for a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The petition shall be filed with the department within fifteen days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with the department a written response to the petition within ten days of the date of the initial filing.

(2) Within fifteen days of receipt of a petition, the department shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. The department shall make its determination in accordance with these rules and considering the following factors (which are listed in order of descending importance):

(a) Magnitude of an agency's involvement.

(b) Approval/disapproval authority over the proposal.

(c) Expertise concerning the proposal's impacts.

(d) Duration of an agency's involvement.

(e) Sequence of an agency's involvement.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-946, filed 2/10/84, effective 4/4/84.]

WAC 197-11-948 Assumption of lead agency status. (1) An agency with jurisdiction over a proposal, upon review of a DNS (WAC 197-11-340) may transmit to the initial lead agency a completed "Notice of assumption of lead agency status." This notice shall be substantially similar to the form in WAC 197-11-985. Assumption of lead agency status shall occur only within the fourteen-day comment period on a DNS issued under WAC 197-11-340 (2)(a), or during the comment period on a notice of application when the optional DNS process in WAC 197-11-355 is used.

(2) The DS by the new lead agency shall be based only upon information contained in the environmental checklist attached to the DNS transmitted by the first lead agency or the notice of application if the optional DNS process is used, and any other information the new lead agency has on the matters contained in the environmental checklist.

(3) Upon transmitting the DS and notice of assumption of lead agency status, the consulted agency with jurisdiction shall become the "new" lead agency and shall expeditiously prepare an EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-948, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-948, filed 2/10/84, effective 4/4/84.]

WAC 197-11-950 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-950, filed 2/10/84, effective 4/4/84.]

WAC 197-11-955 Effective date. (1) These rules shall become effective April 4, 1984.

(2) These rules shall apply to agency decision making under SEPA when one of the following occurs:

(a) An agency adopts policies, procedures, and practices for this chapter (WAC 197-11-902 and 197-11-904); or

(b) One hundred eighty days has elapsed from the effective date of these rules.

(3) The relationship of the effective date to ongoing actions is in WAC 197-11-916 and 197-11-917.

(4) Nothing in these rules shall delay agency compliance with any requirement in chapter 43.21C RCW, as amended, such as RCW 43.21C.031 and 43.21C.075 (as noted in WAC 197-11-916(3)).

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-955, filed 2/10/84, effective 4/4/84.]

PART ELEVEN - FORMS

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

2. Name of applicant:

3. Address and phone number of applicant and contact person:

4. Date checklist prepared:

5. Agency requesting checklist:

6. Proposed timing or schedule (including phasing, if applicable):

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

10. List any government approvals or permits that will be needed for your proposal, if known.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

TO BE COMPLETED BY APPLICANT | EVALUATION FOR AGENCY USE ONLY

B. ENVIRONMENTAL ELEMENTS

1. **Earth**

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other . . . . . .

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. **Air**

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. **Water**

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. **Plants**

a. Check or circle types of vegetation found on the site:
- — Deciduous tree: Alder, maple, aspen, other
- — Evergreen tree: Fir, cedar, pine, other
- — Shrubs
- — Grass
- — Pasture
- — Crop or grain
- — Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other
- — Water plants: Water lily, eelgrass, milfoil, other
- — Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

c. List threatened or endangered species known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. **Animals**

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:
Birds: Hawk, heron, eagle, songbirds,
other: . . . . . .
Mammals: Deer, bear, elk, beaver,
other: . . . . . .
Fish: Bass, salmon, trout, herring, shellfish,
other: . . . . . .

b. List any threatened or endangered species known to be on or near the site.

c. Is the site part of a migration route? If so, explain.

d. Proposed measures to preserve or enhance wildlife, if any:

6. **Energy and natural resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. **Environmental health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe special emergency services that might be required.

2) Proposed measures to reduce or control environmental health hazards, if any:

b. **Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

3) Proposed measures to reduce or control noise impacts, if any:

8. **Land and shoreline use**

a. What is the current use of the site and adjacent properties?

b. Has the site been used for agriculture? If so, describe.

c. Describe any structures on the site.

d. Will any structures be demolished? If so, what?

e. What is the current zoning classification of the site?

f. What is the current comprehensive plan designation of the site?

g. If applicable, what is the current shoreline master program designation of the site?

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

i. Approximately how many people would reside or work in the completed project?

j. Approximately how many people would the completed project?

k. Proposed measures to avoid or reduce displacement impacts, if any:

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

c. Proposed measures to reduce or control housing impacts, if any:

10. **Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

b. What views in the immediate vicinity would be altered or obstructed?

c. Proposed measures to reduce or control aesthetic impacts, if any:

11. **Light and glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

b. Could light or glare from the finished project be a safety hazard or interfere with views?

c. What existing offsite sources of light or glare may affect your proposal?

d. Proposed measures to reduce or control light and glare impacts, if any:

12. **Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity?

b. Would the proposed project displace any existing recreational uses? If so, describe.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. **Historic and cultural preservation**

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

c. Proposed measures to reduce or control impacts, if any:

14. **Transportation**

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

c. How many parking spaces would the completed project have? How many would the project eliminate?

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

g. Proposed measures to reduce or control transportation impacts, if any:

15. **Public services**

a. Would the project result in an increased need for public services (for example: Fire protection, police protection, health care, schools, other)? If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. **Utilities**

a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: . . . . . .

Date Submitted: . . . . . .

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

   Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

   Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

   Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

   Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

   Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-960, filed 2/10/84, effective 4/4/84.]

WAC 197-11-965 Adoption notice.

ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

Adoption for (check appropriate box) ☐ DNS ☐ EIS ☐ other . . . . . .
Description of current proposal . . . . . .
. . . . . .
Proponent . . . . . .
Location of current proposal . . . . . .
. . . . . .
. . . . . .
Title of document being adopted . . . . . .
Agency that prepared document being adopted . . . . . .
Date adopted document was prepared . . . . . .
Description of document (or portion) being adopted . . . . . .
. . . . . .
. . . . . .
If the document being adopted has been challenged (WAC 197-11-630), please describe:
. . . . . .
The document is available to be read at (place/time) . . . . . .
. . . . . .

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decisionmaker.

Name of agency adopting document . . . . . .
Contact person, if other than responsible official . . . . . Phone . . . . . .
Responsible official . . . . . .
Position/title . . . . . Phone . . . . . .
Address . . . . . .
Date . . . . . Signature . . . . . .

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-965, filed 2/10/84, effective 4/4/84.]

WAC 197-11-970 Determination of nonsignificance (DNS).

DETERMINATION OF NONSIGNIFICANCE

Description of proposal . . . . . .
. . . . . .
. . . . . .
Proponent . . . . . .
Location of proposal, including street address, if any . . . . .
. . . . . .
. . . . . .
Lead agency . . . . . .

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☐ There is no comment period for this DNS.

☐ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☐ This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by . . . . . .

Responsible official . . . . . .
Position/title . . . . . Phone . . . . . .
Address . . . . . .
Date . . . . . Signature . . . . . .
(OPTIONAL)
☐ You may appeal this determination to (name) . . . . . .
at (location) . . . . . .
no later than (date) . . . . . .
by (method) . . . . . .
You should be prepared to make specific factual objections.
Contact. . . . . to read or ask about the procedures for SEPA appeals.
☐ There is no agency appeal.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110. 97-21-030 (Order 95-16), § 197-11-970, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-970, filed 2/10/84, effective 4/4/84.]

WAC 197-11-980 Determination of significance and scoping notice (DS).

DETERMINATION OF SIGNIFICANCE
AND REQUEST FOR COMMENTS ON SCOPE OF EIS

Description of proposal . . . . . .
. . . . . .
. . . . . .
Proponent . . . . . .
Location of proposal . . . . . .
. . . . . .
Lead agency . . . . . .

EIS Required. The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C.030 (2)(c) and will be prepared. An environmental checklist or other materials indicating likely environmental impacts can be reviewed at our offices.

The lead agency has identified the following areas for discussion in the EIS: . . . . . .
. . . . . .
. . . . . .

Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments is:

. . . . . .
. . . . . .
Responsible official . . . . . .
Position/title . . . . . Phone . . . . . .
Address . . . . . .
Date . . . . . Signature . . . . . .
(OPTIONAL)

☐ You may appeal this determination of significance
to (name) . . . . . .
at (location) . . . . . .
no later than (date) . . . . . .
by (method) . . . . . .
You should be prepared to make specific factual objections.
Contact. . . . . to read or ask about the procedures for SEPA appeals.

☐ There is no agency appeal.

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-980, filed 2/10/84, effective 4/4/84.]

WAC 197-11-985 Notice of assumption of lead agency status.

NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of proposal . . . . . .
. . . . . .
. . . . . .
Proponent . . . . . .
Location of proposal . . . . . .
Initial lead agency . . . . . .
New lead agency . . . . . .

The initial lead agency concluded that this proposal was not likely to have significant adverse impact on the environment, according to its determination of nonsignificance dated . . . . .

We have reviewed the environmental checklist and related information. In our opinion, an environmental impact statement (EIS) is required on the proposal, because of the following impacts: . . . . . .
. . . . . .
. . . . . .
You are being notified that we assume the responsibility of lead agency under SEPA, including the duty to prepare an EIS on the proposal.
Responsible official . . . . . .
Position/title . . . . . Phone . . . . . .
Address . . . . . .
Date . . . . . Signature . . . . . .

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-985, filed 2/10/84, effective 4/4/84.]

WAC 197-11-990 Notice of action.

NOTICE OF ACTION

Notice is given under SEPA, RCW 43.21C.080, that (name of agency or entity). . . . . took the action described in (2) below on (date). . . . . .

1. Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced on or before (date). . . . . .

2. Description of agency action: . . . . . .
. . . . . .
. . . . . .
3. Description of proposal (if not covered by (2)):
. . . . . .
. . . . . .
4. Location of proposal (a sufficient description should be given to locate the site, if any, but a complete legal description is not required):
. . . . . .
. . . . . .
5. Type of environmental review under SEPA (include name and date of any environmental documents):
. . . . . .
6. Documents may be examined during regular business hours at (location, including room number, if any):
. . . . . .
7. Name of agency, proponent, or applicant giving notice:
. . . . . .
8. This notice is filed by (signature of individual and capacity in which the person is signing):
. . . . . .
. . . . . Date . . . . . .

[Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-990, filed 2/10/84, effective 4/4/84.]