Chapter 140-09 WAC
WASHINGTON STATE CONVENTION AND TRADE CENTER—SEPA GUIDELINES

PART ONE - AUTHORITY

140-09-010 Authority. These rules are promulgated pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.120, and are intended to administratively implement that statute, as further authorized by WAC 197-11-904. This chapter contains this corporation’s SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this chapter.

PART TWO - GENERAL REQUIREMENTS

140-09-020 Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

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Determination of significance and EIS for
Purpose of this part.
Determination of nonsignificance (DNS).
Threshold determination process.
Categorical exemptions.
Early scoping for MTCA remedial actions.
Additional information.
Mitigated DNS.
Threshold determination required.

Either the DNS or the final EIS of the lead agency in making
decisions on the proposal. The corporation shall not prepare
a proposal, the corporation shall use and consider, as appropriate,
characterization shall be considered a corporation project.
Investigation of the primary sponsor or initiator of the project is
corporation or a private party. Any project in which cor
upon whether the primary sponsor or initiator of the project is
responsible official" by those sections of the SEPA rules that were

determination, supervise scop ing and preparation of any
agency, the responsible official shall make the threshold
determination, supervise scop ing and preparation of any
required environmental impact statement (EIS), and perform
any other functions assigned to the "lead agency" or "respon-
sible official" by those sections of the SEPA rules that were
adopted by reference in WAC 140-09-020.

(1) "Corporation" means the Washington state conven-
tion and trade center as established by chapter 67.40 RCW.
(2) "SEPA rules" means chapter 197-11 WAC adopted
by the department of ecology.
(3) "Early notice" means the corporation's response to an
applicant stating whether it considers issuance of a determi-
nation of significance likely for the applicant's proposal (mit-
gated determination of nonsignificance (DNS) procedures).

The corporation is authorized to make agreements as
to lead agency status or shared lead agency duties for a pro-
posal under WAC 197-11-942 and 197-11-944; provided that
the responsible official approves the agreement.

The corporation, making a lead agency determination
for a private project shall require sufficient information from
the applicant to identify which other agencies have jurisdic-
tion over the proposal (That is: Which agencies require non-
exempt licenses?).

When the corporation is the lead agency for a MTCA
remedial action, the department of ecology shall be provided
an opportunity under WAC 197-11-253(5) to review the
environmental documents prior to public notice being pro-
vided. If the SEPA and MTCA documents are issued together
with one public comment period under WAC 197-11-253(6),
the corporation shall decide jointly with ecology who
receives the comment letters and how copies of the comment
letters will be distributed to the other agency.

PART THREE - CATEGORICAL EXEMPTIONS AND
THRESHOLD DETERMINATIONS

WAC 140-09-065 Purpose of this part and adoption
by reference. This part contains the rules for deciding
whether a proposal has a "probable significant, adverse envi-
ronmental impact" requiring an environmental impact state-
ment (EIS) to be prepared. This part also contains rules for
evaluating the impacts of proposals not requiring an EIS. The
corporation adopts the following sections of chapter 197-11
of the Washington Administrative Code by reference:

WAC
197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

WAC 140-09-110 Purpose of this part and adoption by reference. This part contains the rules for preparing environmental impact statements. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC
197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-408 Scoping.
197-11-410 Expanded scoping. (Optional)
197-11-420 EIS preparation.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
197-11-440 EIS contents.
197-11-442 Contents of EIS on nonproject proposals.
197-11-443 EIS contents when prior nonproject EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.

PART FIVE - COMMENTING

WAC 140-09-128 Adoption by reference. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC
197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-508 SEPA register.

WAC
197-11-510 Public notice.
197-11-535 Public hearings and meetings.
197-11-545 Effect of no comment.
197-11-550 Specificity of comments.
197-11-560 FEIS response to comments.
197-11-570 Consulted agency costs to assist lead agency.

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PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

WAC 140-09-150 Purpose of this part and adoption by reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the corporation’s own environmental compliance. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC
197-11-600 When to use existing environmental documents.
197-11-610 Use of NEPA documents.
197-11-620 Supplemental environmental impact statement—Procedures.
197-11-625 Addenda—Procedures.
197-11-630 Adoption—Procedures.
197-11-635 Incorporation by reference—Procedures.
197-11-640 Combining documents.

[Statutory Authority: RCW 43.21C.120. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-150, filed 1/3/85.

PART SEVEN - SEPA AND AGENCY DECISIONS

WAC 140-09-155 Purpose of this part and adoption by reference. This part contains rules (and policies) for SEPA’s substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The corporation adopts the following sections of chapters 197-11 of the Washington Administrative Code by reference:

WAC
197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-660 Substantive authority and mitigation.
197-11-680 Appeals.

[Statutory Authority: RCW 43.21C.120. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-155, filed 3/1/85.]

WAC 140-09-160 Substantive authority. (1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the Washington state convention and trade center.

(2) The corporation may attach conditions to a permit or approval for a proposal so long as:
(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
(b) Such conditions are in writing; and
(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
(d) The corporation has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The corporation may deny a permit or approval for a proposal on the basis of SEPA so long as:
(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and
(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
(c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.

(4) The corporation designates and adopts by reference the following policies as the basis for the corporation’s exercise of authority pursuant to this section:
(a) The corporation shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
(iii) Attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to health or safety, or other undesirable and unintended consequences;
(iv) Preserve when feasible important historic, cultural, and natural aspects of our national heritage;
(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life’s amenities; and
(vii) Enhance the quality of renewable resources and support recycling of depletable resources.
(b) The corporation recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(5) To the extent that the appeal provision of RCW 43.21C.060 may be applicable to the corporation, the corporation hereby eliminates any appeal to the legislative authority of the corporation of decisions to grant, condition, or deny a proposal.

[Statutory Authority: Chapter 43.21C RCW. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-160, filed 3/1/85.]

WAC 140-09-170 No administrative appeal. There is no administrative appeal of any corporation determination relating to SEPA. Any appeal must be a judicial appeal under WAC 197-11-680(4).

[Statutory Authority: RCW 43.21C.120. WSR 08-13-015, § 140-09-170, filed 6/6/08, effective 7/7/08.]

(6/6/08)
WAC 140-09-173 Notice/statute of limitations. (1) The corporation, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the corporation, applicant or proponent pursuant to RCW 43.21C.080.

[Statutory Authority: Chapter 43.21C RCW. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-173, filed 1/3/85.]

PART EIGHT - DEFINITIONS

WAC 140-09-175 Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference, as supplemented by WAC 140-09-030:

WAC

197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.
197-11-708 Adoption.
197-11-710 Affected tribe.
197-11-712 Affecting.
197-11-714 Agency.
197-11-716 Applicant.
197-11-718 Built environment.
197-11-720 Categorical exemption.
197-11-721 Closed record appeal.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-11-726 Cost-benefit analysis.
197-11-728 County/city.
197-11-730 Decision maker.
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197-11-734 Determination of nonsignificance (DNS).
197-11-736 Determination of significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-750 Expanded scoping.
197-11-752 Impacts.
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197-11-756 Lands covered by water.

WAC

197-11-758 Lead agency.
197-11-760 License.
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197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-775 Open record hearing.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.
197-11-782 Probable.
197-11-784 Proposal.
197-11-786 Reasonable alternative.
197-11-788 Responsible official.
197-11-790 SEPA.
197-11-792 Scope.
197-11-793 Scoping.
197-11-794 Significant.
197-11-796 State agency.
197-11-797 Threshold determination.
197-11-799 Underlying governmental action.

[Statutory Authority: RCW 43.21C.120. WSR 08-13-015, § 140-09-175, filed 6/6/08, effective 7/7/08. Statutory Authority: Chapter 43.21C RCW. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-175, filed 1/3/85.]

PART NINE - CATEGORICAL EXEMPTIONS

WAC 140-09-180 Adoption by reference. The corporation adopts by reference the following rules for categorical exemptions from chapter 197-11 of the Washington Administrative Code:

WAC

197-11-800 Categorical exemptions.
197-11-810 Exemptions and nonexemptions applicable to specific state agencies.
197-11-820 Department of licensing.
197-11-825 Department of labor and industries.
197-11-830 Department of natural resources.
197-11-835 Department of fisheries.
197-11-840 Department of game.
197-11-845 Department of social and health services.
197-11-850 Department of agriculture.
197-11-855 Department of ecology.

(6/6/08)
WAC 140-09-182 Corporation compliance with flexible thresholds. The corporation will use the flexible thresholds established by the city of Seattle.

WAC 140-09-183 Emergencies. Actions that must be undertaken immediately or within a time too short to allow full compliance with these rules, 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 from the procedural requirements of this chapter. Such actions include, but are not limited to, the following:

1. Emergency pollution control actions responding to accidental discharges, leaks or spills into the air, water, or land.
2. Implementation of a change in waste disposal procedures caused by unanticipated changes in waste sources which are in compliance with federal and state regulations and standards.
3. Cleanup or decontamination of the corporation's facilities or equipment accidentally exposed or contaminated, to permit maintenance, repair or relocation, when procedures followed are in accordance with federal or state guidelines, recommendations, or standards.
4. Emergency actions implemented to reduce an imminent hazard to the public health or safety resulting from structural failure, accidental or intentional acts or omissions, equipment malfunction, human error or natural event.

WAC 140-09-185 Purpose of this part and adoption by reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, listing agencies with environmental expertise, selecting the lead agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

PART TEN - AGENCY COMPLIANCE

WAC 140-09-220 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.

PART ELEVEN - FORMS

WAC 140-09-230 Adoption by reference. The corporation adopts the following forms and sections of chapter 197-11 of the Washington Administrative Code by reference:
WAC
197-11-960  Environmental checklist.
197-11-965  Adoption notice.
197-11-970  Determination of nonsignificance (DNS).
197-11-980  Determination of significance and scoping notice (DS).
197-11-985  Notice of assumption of lead agency status.
197-11-990  Notice of action.

[Statutory Authority: RCW 43.21C.120. WSR 08-13-015, § 140-09-230, filed 6/6/08, effective 7/7/08. Statutory Authority: Chapter 43.21C RCW. WSR 85-03-004 (Order 3, Resolution No. 103), § 140-09-230, filed 1/3/85.]