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SNOHOMISH COUNTY, WASHINGTON

W.T. _____ K.B. _____
J.C. _____ S.W. _____
C.L. _____ E. _____

ORDINANCE NO. 84-111

AMENDING SNOHOMISH COUNTY CODE,
TITLE 23, RELATING TO ENVIRONMENTAL POLICY

BE IT ORDAINED:

Section 1. That Snohomish County Code, Title 23 be repealed in its entirety.

NEW SECTION. Section 2. That a new Title 23 be added to Snohomish County Code as follows:

Title-23

ENVIRONMENTAL POLICY

Chapters

- 23.04 General
- 23.08 Definitions
- 23.12 Exemptions and Threshold Determinations
- 23.16 Procedure
- 23.20 Lead Agency Status and Agency Compliance
- 23.24 Lead Department
- 23.28 Public Notice and Commenting
- 23.32 EIS Process
- 23.36 Substantive Authority
- 23.40 Appeals
- 23.44 Forms
- 23.45 Sunset Date

Chapter 23.04

General

Sections:

- 23.04.040 Title
- 23.04.080 Authority and Purpose
- 23.04.120 Applicability
- 23.04.160 Severability
- 23.04.200 SEPA Rules--adoption by reference

23.04.040--Title. This title constitutes and may be cited as the Snohomish County Environmental Policy Ordinance.

23.04.080--Authority and Purpose. The Snohomish County Environmental Policy Ordinance is promulgated pursuant to the authority and mandate of RCW 43.21C.120 and the SEPA Rules, WAC 197-11-904 for the purpose of establishing an environmental review process for the implementation of SEPA in Snohomish County governmental decision making. It is the intent of the County that compliance with this ordinance shall constitute complete procedural compliance with SEPA and the SEPA Rules.

23.04.120--Applicability. The requirements of this ordinance are applicable to all actions of Snohomish County and its departments, officers, boards, commissions, and councils; PROVIDED, that the extent to which the provisions hereof apply to proposals initiated prior to the effective date of this ordinance shall be governed by WAC 197-11-955.

23.04.160--Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such decision shall not affect the validity of the remaining portions of the ordinance or its application to other persons or circumstances.

23.04.200--SEPA Rules--Adoption by Reference. Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-040	Definitions
197-11-050	Lead agency
197-11-055	Timing of the SEPA process
197-11-060	Content of environmental review
197-11-070	Limitations on action during SEPA process
197-11-080	Incomplete or unavailable information
197-11-090	Supporting documents
197-11-100	Information required of applicants

Chapter 23.08

Definitions

Sections:

23.08.010	General
23.08.020	Council
23.08.030	Department
23.08.040	Department, Acting
23.08.050	Department, Lead
23.08.060	Department with jurisdiction
23.08.070	Early Notice
23.08.080	Ordinance
23.08.090	SEPA Rules
23.08.100	SEPA Rules--adoption by reference

23.08.010--General. In addition to those definitions contained with WAC 197-11-700 through 799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise.

23.08.020--Council. "Council" means the Snohomish County Council.

23.08.030--Department. "Department" means any administrative office or department of Snohomish County.

23.08.040--Department, acting. "Acting department" means a department with jurisdiction which has received an application for a license, or which is the initiator of a proposed action.

23.08.050--Department, lead. "Lead department" means the department designated by SCC Chapter 23.24 to undertake lead agency responsibility where Snohomish County is the lead agency.

23.08.060--Department with jurisdiction. "Department with jurisdiction" means any department from which a nonexempt license is required for a proposal or any part thereof, or which has primary administrative responsibility for processing an application for such a license, or which has primary administrative responsibility for processing an application for a grant or loan for a proposal, or which is proposing or initiating any governmental action of a project or non-project nature.

23.08.070--Early notice. "Early notice" means the county's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal.

23.08.080--Ordinance. "Ordinance" means the ordinance, resolution, or other procedure used by the county to adopt regulatory requirements

~~23.08.090~~ ~~SEPA Rules~~. "SEPA Rules" means Chapter 197.11 WAC adopted by the Department of Ecology.

~~23.08.100~~ ~~SEPA Rules--adoption by reference~~. Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-700	Definitions
197-11-702	Act
197-11-704	Action
197-11-706	Addendum
197-11-703	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
197-11-722	Consolidated appeal
197-11-724	Consulted agency
197-11-726	Cost-benefit analysis
197-11-728	County/City
197-11-730	Decisionmaker
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
197-11-748	Environmentally sensitive areas
197-11-750	Expanded scoping
197-11-752	Impacts
197-11-754	Incorporation by reference
197-11-756	Lands covered by water
197-11-758	Lead agency
197-11-760	License
197-11-762	Local agency
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
197-11-776	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

Chapter 23.12

Exemptions and Threshold Determinations

Sections:

- 23.12.040 Use of Exemptions
- 23.12.080 Flexible Thresholds for categorical exemptions
- 23.12.120 Environmentally Sensitive Areas
- 23.12.160 Environmental checklist
- 23.12.200 Mitigated determination of nonsignificance
- 23.12.240 SEPA Rules--adoption by reference

~~23.12.040 Use of Exemptions.~~

(1) Each department that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this title shall apply to the proposal. The county shall not require completion of an environmental checklist for an exempt action.

(2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the county may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that

(a) The county shall not give authorization for:

- (i) any nonexempt action;
- (ii) any action that would have a adverse environmental impact; or
- (iii) any action that would limit the choice of reasonable alternatives

(b) A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would have no purpose if nonexempt action(s) were not approved; and

(c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

(4) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are indicated on the maps referred to in Sec. 23.12.120.

~~23.12.080 Flexible Thresholds for Categorical Exemptions.~~ The exempt levels for minor new construction as established by WAC 197-11-800(1)(b) are increased to the following levels in accordance with WAC 197-11-800(1)(C). The maximum exempt levels are based upon local conditions and can be utilized only when applicable accompanying criteria are met.

(1) For residential dwelling units in WAC 197-11-800(1)(b)(i): 20 dwelling units; provided that the project site is:

(a) located in the Multiple Residential or Low Density Multiple Residential zone or other zones that allow an equivalent density, and

(b) designated for multiple family residential use by the applicable comprehensive land use plan, and

(c) served by public water and sanitary sewers

(2) For agricultural structures in WAC 197-11-800(1)(B)(ii): 30,000 square feet.

(3) For office, school, commercial, recreational, service, or storage buildings in WAC 197-11-800(1)(b)(iii): 8,000 square feet and 30 parking spaces, provided that the project site is:

- (a) zoned for commercial use, and
 - (b) designated for commercial use by the applicable comprehensive land use plan, and
 - (c) served by public water and sanitary sewer
- (4) For parking lots in WAC 197-11-800(1)(b)(iv): 40 parking spaces
- (5) For landfills and excavations in WAC 197-11-800(1)(b)(v): 500 cubic yards.

23.12.120 Environmentally Sensitive Areas.

(1) Certain categorical exemptions shall not apply when located in identified environmentally sensitive areas. The categorical exemptions set forth in WAC 197-11-800(1)(B)(i), (iii), (iv) and (v), (2)(g), (6)(a), (24)(b) and (d), (25)(h), and, provided that a shoreline development permit is required or the communication or electrical line crosses over a body of water subject to the Shoreline Management Act, (24)(a) and (c), shall not apply when the proposed activity is located within any of the following environmentally sensitive areas.

(a) Rural, conservancy and natural environment, as designated by the Snohomish County Shoreline Management Master Program.

(b) All lands having twenty-five percent (25%) or greater slope as designated on the Slopes Maps in the Comprehensive Planning Area Map Series on file with the County Department of Planning and Community Development, or, when such slopes have not been mapped for a comprehensive planning area, contained within landslide hazard areas designated on the Disaster Risk Map on file with the Department of Planning and Community Development.

(c) All lands designated agriculture by the Snohomish County Agricultural Preservation Plan and all lands designated sensitive lands, watershed/site sensitive or environmentally sensitive by adopted Snohomish County Comprehensive Plans.

(2) In the event of conflict between the definitions and maps referenced above, the actual presence or absence of the characteristics of such sensitive areas shall govern. In determining whether a proposal is, or is not located in a sensitive area, an acting department may use detailed project site surveys, soil reports and other data which it may require an applicant to furnish.

(3) The county shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance when making a threshold determination for all such proposals. The county shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

23.12.160 Environmental checklist.

(1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; except that a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The county shall use the environmental checklist to determine the lead agency and, if the county is the lead agency, for determining the responsible official and for making the threshold determination.

(2) For private proposals, the county will require the applicant to complete the environmental checklist, providing assistance as necessary. For county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) The county may complete all or part of the environmental checklist for a private project if either of the following occurs:

(a) The county has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

~~23.12.200 Mitigated determinations of nonsignificance.~~ (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the county's actual threshold determination for the proposal.

(3) The responsible official should, if possible, respond to the request for early notice within 15 working days. The response shall:

(a) Be written;

(b) State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the county to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the county shall base its threshold determination on the changed or clarified proposal and should, if possible, make the determination within 15 days of receiving the changed or clarified proposal;

(a) If the county indicated specific mitigation measures which would remove all probable adverse environmental impacts in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the county shall issue and circulate a mitigated determination of nonsignificance under WAC 197-11-240(2).

(b) If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200 foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) Mitigated DNS's issued under WAC 197-11-340(2), require a fifteen day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit.

(8) A decisionmaker or a reviewing body on an appeal shall not be bound by the designation of mitigation measures contained in a mitigated DNS and may change such mitigation measures or impose additional conditions of approval as authorized by law. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall make a new threshold determination and, if necessary may withdraw the mitigated DNS and issue a DS.

(9) The county's written response under (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the county to issue a mitigated DNS.

~~23.12.240--SEPA Rules--adoption by reference.~~ Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

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
197-11-360	Determination of significance (DS)/initiaton of scoping
197-11-390	Effect of threshold determination
197-11-800	Categorical exemptions
197-11-880	Emergencies

Chapter 23.16

Procedure

Sections:

23.16.040	Designation of responsible official
23.16.080	Designation of official to perform consulted agency responsibilities
23.16.120	Responsibility of consulted departments
23.16.160	Time limits applicable to environmental review process
23.16.200	Additional timing considerations
23.16.240	Fees
23.16.280	Denial of proposal without EIS
23.16.320	SEPA public information
23.16.360	SEPA Rules--adoption by reference

~~23.16.040--Designation of responsible official.~~

(1) For those proposals for which the county is the lead agency, the responsible official shall be the director or his designee of the lead department as determined in Chapter 23.24.

(2) For all proposals for which the county is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that are adopted by reference in this Title.

~~23.16.080--Designation of official to perform consulted agency responsibilities.~~ The director of the Snohomish County Department of Planning and Community Development shall be responsible for the preparation of written comments for the county in response to a consultation request prior to a threshold determination, participation in scoping, or reviewing a draft EIS. All consultation requests shall be forwarded to the Director of the Department of Planning and Community Development who shall distribute them to appropriate departments with expertise or jurisdiction for their timely preparation of written responses.

~~23.16.120--Responsibility of consulted departments.~~ Departments when responding to consultation requests from a lead agency through

the Director of the Department of Planning and Community Development pursuant to Section 23.16.080, or from a lead department where Snohomish County is the lead agency, shall provide to the director or lead department in writing such responsive data, comments, information, test results and other material which it possesses relevant to its area of jurisdiction or expertise.

~~23.16.160~~ ~~Time limits applicable to the SEPA process.~~ The following time limits (expressed in calendar days) generally apply to the processing of all private projects and to those governmental proposals submitted to Snohomish County by other agencies:

(1) ~~Categorical Exemptions.~~ A determination that a project is categorically exempt should, if possible, be made within seven (7) days of submission of an adequate application;

(2) ~~Threshold Determinations.~~

(a) Threshold determinations which can be made based solely upon review of the environmental checklist submitted by applicant should, if possible, be completed within fifteen (15) days of submission of an adequate application and the completed checklist and payment of the fee provided for in Section 23.16.240(1).

(b) Threshold determinations requiring further information from the applicant or consultation with other agencies with jurisdiction should, if possible, be completed within fifteen (15) days of receiving the requested information from the applicant or the consulted agency; requests by the lead department for such further information should be made within fifteen (15) days of the submission of an adequate application and completed checklist; when a request for further information is submitted to a consulted agency, the lead department shall wait a maximum of thirty (30) days for the consulted agency to respond.

(c) Threshold determinations which require that further studies, including field investigations, be initiated by the lead department should, if possible, be completed within thirty (30) days of submission of an adequate application and the completed checklist.

(d) Threshold determinations for proposals where the applicant recommends in writing that an EIS be prepared because of probable significant adverse environmental impact(s) described in the application, should, if possible, be made within fifteen (15) days of receiving an adequate application and completed checklist.

~~23.16.200~~ ~~Additional timing considerations.~~

(1) For nonexempt proposals, the DNS or Final EIS for the proposal shall accompany the county's executive staff recommendation to any appropriate advisory or decision making body such as the Planning Commission, Hearing Examiner or County Council.

(2) If the county's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the county conduct environmental review prior to submission of the detailed plans and specifications. The lead department may conduct the environmental review if the proposal's impacts upon the environment can be reliably identified without the submittal of detailed plans.

~~23.16.240~~ ~~Fees.~~ The following fees which are in addition to any other fees provided for by law shall be charged when Snohomish County is the lead agency for a noncounty proposal.

(1) ~~Threshold Determination:~~ For every threshold determination, a fee of \$100.00 shall be required of the proponent of the proposal; except that a fee of \$150.00 shall be required on applications for subdivisions, commercial/industrial rezones and conditional use applications for excavations and landfills; PROVIDED, that no threshold determination fee shall be charged for a proposal which would be categorically exempt but for the provisions of SCC 23.12.120. This fee shall be collected prior to undertaking the threshold

determination, and the time periods provided in SCC 23.16.160 for making a threshold determination shall not begin to run until payment of the fee.

(2) EIS.

(a) The following EIS preparation and distribution costs shall be borne by the applicant or proponent.

(i) Actual cost of the time spent by regular county professional, technical and clerical employees required for the preparation and distribution of the applicant's impact statement; PROVIDED, that such costs shall be accounted for properly; and PROVIDED FURTHER, that no costs shall be charged for processing of the application which would be incurred with or without the requirement for an EIS or which are covered by the regular application fee; and

(ii) Additional costs, if any, for experts not employed by the county, texts, printing, advertising, and for any other actual costs required for the preparation and distribution of the EIS; and

(iii) When an EIS is to be prepared by a consultant actual consultant fees which shall be solely the responsibility of and billed directly to the applicant or proponent; PROVIDED, that the applicant or proponent shall also bear such additional county costs as provided for in (i) and (ii) above as are incurred in the review, revision, approval and distribution of the EIS.

(b) When an EIS is to be prepared by the County, following consultation with the applicant, the lead department shall inform the applicant of estimated costs and completion date for the draft EIS prior to accepting the deposit required by subsection 2(c). Such estimate shall not constitute an offer or covenant by the lead department nor shall it be binding upon the County.

(c) In order to assure payment of the above county costs, the applicant or proponent shall post with the county cash, surety bond or other sufficient and acceptable security in the minimum amount of \$1500.00; PROVIDED, that for consultant-prepared EISs, the security may be in such lesser amount as deemed sufficient by the responsible official to cover estimated county costs. If accrued county costs will exceed the posted security, EIS preparation shall cease following reasonable notice to the applicant until posting by the applicant or proponent of such additional security as deemed sufficient by the responsible official to secure the payment of estimated additional county costs.

Any unexpended balance from security deposits made by the applicant shall be returned upon completion of the final EIS.

(d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) thru (c) of this section which remain after incurred costs are paid.

(3) The county shall collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(4) The county may charge any person for copies of any document prepared under this ordinance, and for mailing the document in a manner provided by Chapter 42.17 RCW.

23.16.280 Denial of Proposal Without EIS. When denial of a non-county proposal, for which a DS has been issued, can be based on grounds which are ascertainable without preparation of an EIS, the responsible official may deny the application and/or recommend denial thereof by other departments or agencies with jurisdiction without preparing an EIS in order to avoid incurring needless county and applicant expense, subject to the following:

(1) Any such denial or recommendation of denial shall be supported by express written findings or conclusions of irreconcilable conflict with adopted plans, ordinances, regulations or laws.

(2) When considering a recommendation of denial made pursuant to this section, the decision making body may take one of the following actions:

- (a) Deny the application;
- (b) Find that there is reasonable doubt that the recommended grounds for denial are sufficient and remand the application to the responsible official for reconsideration following preparation of an EIS.

~~23.16.320~~ ~~SEPA public information.~~ The county shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

~~23.16.360~~ ~~SEPA rules--adoption by reference.~~ Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

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

CHAPTER 23.20

Lead Agency Status and Agency Compliance

Sections:

- 23.20.040 Lead agency responsibilities.
- 23.20.080 Lead agency determination.
- 23.20.120 SEPA rules--adoption by reference

~~23.20.040~~ ~~Lead Agency Responsibilities.~~ The lead agency shall be the only agency responsible for complying with the threshold determination procedures, the supervision or actual preparation and circulation of draft EISSs, the conduct of any public hearings required by the SEPA Rules, and the preparation or the supervision of preparation of final EISSs.

~~23.20.080~~ ~~Lead Agency Determination.~~

(1) Any department receiving or initiating a nonexempt proposal, shall determine the lead agency for that proposal pursuant to the criteria set forth under WAC 197-11-050 and WAC 197-11-922 through WAC 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency. To make the lead agency (and lead department) determination, such acting department must determine to the best of its ability the other agencies (and departments) with jurisdiction over the proposal. This can be done by requesting information from a private applicant and through consultation with the county Department of Planning and Community Development, which serves as an information center established pursuant to the state Environmental Coordination Procedures Act of 1973.

(a) If the acting department determines that Snohomish County is the lead agency, it shall additionally determine the lead department for the proposal in accordance with SCC 23.24. If the lead department is not the acting department, the acting department shall transmit to the lead department the application it received together with the completed environmental checklist and its lead agency and lead department determination and explanation therefor. If not disputed pursuant to SCC 23.24.080, the lead department shall immediately mail a copy of the lead agency determination and explanation thereof to all other agencies with jurisdiction. The lead

department shall then proceed to the threshold determination procedures in WAC 197-11-300 through WAC 197-11-390. If another agency with jurisdiction objects to the lead agency determination, and the dispute cannot be resolved by agreement, such agency may within fifteen (15) days of receipt of the determination petition DOE for a lead agency determination pursuant to WAC 197-11-946.

(b) If the acting department determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with the completed environmental checklist and its determination of lead agency and explanations therefor. If the agency receiving this determination does not agree that it is the lead agency, and the dispute cannot be resolved by agreement, DOE shall be petitioned for a lead agency determination pursuant to WAC 197-11-946.

(2) Upon receipt by the county of a lead agency determination for a proposal from another agency, such determination shall immediately be transmitted to the lead department for such proposal if the county was determined to be the lead agency or to departments with jurisdiction over the proposal if another agency was determined to be the lead agency. In the event that such determination is inconsistent with the criteria of WAC 197-11-922 through 197-11-940, the county or lead department may object thereto. Any such objection must be made and resolved within fifteen (15) days of receipt of the determination, or the county must petition DOE for a lead agency determination pursuant to WAC 197-11-946 within the fifteen-day time period. Any such petition shall be initiated by the county executive.

~~23.20.120~~ ~~SEPA Rules--Adoption by Reference~~. Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-916	Application to ongoing actions
197-11-920	Agencies with environmental expertise
197-11-922	Lead agency rules
197-11-924	Determining the lead agency
197-11-926	Lead agency for governmental proposals
197-11-928	Lead agency for public and private proposals
197-11-930	Lead agency for private projects with one agency with jurisdiction
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
197-11-938	Lead agencies for specific proposals
197-11-942	Agreements on lead agency status
197-11-944	Agreements on division of lead agency duties
197-11-946	DOE resolution of lead agency disputes
197-11-948	Assumption of lead agency status

CHAPTER 23.24

Lead Department

Sections:

23.24.040	Lead Department Responsibilities
23.24.080	Procedure
23.24.120	Governmental Proposals--Project
23.24.160	Governmental Proposals--Non-Project
23.24.200	Private Projects
23.24.240	Specific Proposals

23.24.280 Agreements as to Lead Department Status

~~23.24.040~~ ~~Lead Department Responsibilities.~~ The lead department shall be responsible for undertaking lead agency duties where Snohomish County is the lead agency.

~~23.24.080~~ ~~Procedure.~~ The lead department shall be determined for projects for which Snohomish County is the lead agency in accordance with the criteria of this chapter. Interdepartmental disputes over the application of such criteria, which cannot be settled by agreement shall be determined by the county executive. In addition, the county executive upon request therefore may waive the criteria herein and designate a special lead department for a proposal where strict application of such criteria would result in interdepartmental budgetary or manpower inequities.

~~23.24.120~~ ~~Governmental Proposals--Project.~~ The lead department for all proposals for governmental action of a project nature shall be the department which would have primary administrative responsibility for such action.

~~23.24.160~~ ~~Governmental Proposals--Non-Project.~~ The lead department for all proposals for governmental action of a non-project nature shall be the department initiating the proposal.

~~23.24.200~~ ~~Private Projects.~~

(1) For proposed private projects over which only one department has jurisdiction, the lead department shall be the department with jurisdiction.

(2) For private projects which require licenses from more than one department, the lead department shall be one of the departments with jurisdiction, based upon the following order of priority:

- (a) Department of Planning & Community Development
- (b) Engineer/Public Works
- (c) Auditor
- (d) Council
- (e) Other departments

~~23.24.240~~ ~~Specific Proposals.~~ Notwithstanding the lead department designation criteria contained in SCC 23.24.120 through 23.24.200, the lead department for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to the acquisition, transfer or improvement of parks, the lead department shall be the Department of Community and Educational Services.

~~23.24.280~~ ~~Agreements as to lead department status.~~ Nothing herein shall prohibit a department from assuming the role of lead department as a result of an agreement among all departments with jurisdiction.

Chapter 23.28

Public Notice and Commenting

Sections:

- 23.28.040 Public notice requirements
- 23.28.080 Integration of public notice requirements
- 23.28.120 Additional notice of environmental documents
- 23.28.160 Scoping Notice
- 23.28.200 Cost of Notice
- 23.28.240 SEPA Rules--Adoption by Reference

~~23.28.040~~ ~~Public notice requirement.~~

(1) Snohomish County shall give public notice of the issuance of a DNS (WAC 197-11-340(2)), DS (WAC 197-11-300(3)), draft EIS (WAC 197-11-455(5)), and draft Supplemental EIS (WAC 197-11-620), as follows:

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

(b) Posting the property by the applicant for site-specific proposals;

(2) The county may provide additional public notice by one or more of the following methods:

(a) mailing of written notice to all property owners of record and known residents within an eight hundred foot radius of the external boundaries of the proposal site.

(b) notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered.

(c) notifying the news media;

(d) placing notices in appropriate regional, neighborhood, ethnic or trade journals;

(e) publishing notice in agency newsletters

~~23.28.080~~ Integration of public notice requirements. Whenever possible, the county shall integrate the public notice required under this chapter with existing notice procedures for the county's nonexempt permit(s) or approval(s) required for a proposal.

~~23.28.120~~ Additional notice of environmental documents. In addition to the notice requirements of Section 23.28.040, the notice of a public hearing required for any nonexempt license shall contain reference to the type and availability of the environmental documents issued for the nonexempt license.

~~23.28.160~~ Scoping Notice. Whenever a DS is issued under WAC 197-11-360(3), the scoping procedures for the proposal shall be included as required in WAC 197-11-408.

~~23.28.200~~ Cost of Notice. The county may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

~~23.28.240~~ SEPA Rules--Adoption by Reference. Snohomish County adopts, by reference the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-500	Purpose of this Part
197-11-502	Inviting comment
197-11-504	Availability and cost of environmental documents
197-11-508	SEPA Register
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

Chapter 23.32

EIS Process

Sections:

23.32.040	EIS preparation
23.32.060	Additional elements
23.32.080	Public hearing
23.32.120	No action for seven days after publication
23.32.160	SEPA Rules--adoption by reference

23.32.040 EIS preparation. The draft and final EIS for a proposed private project shall be prepared by either the county or an approved consultant, as determined by and under the supervision of the responsible official.

(1) If the responsible official determines that someone other than the county will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the county's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

(2) In the event that the EIS is to be prepared by a consultant, the consultant shall be selected or approved by the responsible official but retained directly by the applicant. The responsible official may maintain a list of approved consultants developed following a call for and submittal of qualifications. The responsible official shall advise the consultant regarding areas of research as well as the organization of the resultant document, and shall assure that the EIS is prepared in a responsible manner with appropriate methodology.

(3) In the event that the EIS is to be prepared by the county, the county may retain experts as needed. In addition, the responsible official may request the applicant to provide data and information relevant to any or all areas covered by the EIS, subject to the limitations contained in this ordinance. If the applicant fails or refuses to provide data or information required for preparation of an adequate draft EIS or for adequate response to critical comments received on a draft EIS, the responsible official may refuse to further process or consider the private application.

(4) The applicant shall bear and secure the payment of county costs in accordance with SCC Section 23.16.240.

(5) No matter who participates in the preparation of an EIS, the responsible official shall be satisfied that it complies with this ordinance prior to its issuance and distribution.

23.32.060 Additional elements. The lead agency may include, in an EIS or appendix, an analysis of the following factors which may be impacted by a proposal. These factors shall not add to the criteria for threshold determination and 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.

(1) Population characteristics, including distribution by age, sex and ethnic characteristics of the residents of the geographic area affected by the environmental impacts of the proposal, shall be covered in all EISs, either by being discussed or marked "N/A".

(2) Where significant impact thereon is apparent, the responsible official may include any of the following:

- (a) Economy;
- (b) Cultural factors;
- (c) Social policy analysis;
- (d) Cost benefit analysis;
- (e) Applicable adopted local and regional goals, policies, plans, laws and regulations; provided, that the economy shall be included in any EIS on a proposal to adopt or amend legislation, ordinances, rules or regulations.

23.32.080 Public hearing.

(1) Whenever a public hearing on the environmental impact of a proposal is required pursuant to WAC 197-11-535(2), and Snohomish County is the lead agency for such proposal, the hearing shall be presided over by the hearing examiner, and departments with jurisdiction shall have representatives in attendance thereat. Notice of said hearing shall be as follows:

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

(b) Mailing of written notice to agencies with jurisdiction and to all property owners of record within a three hundred foot radius of the external boundaries of the subject property.

(2) The notice requirement of (1)(b) shall not apply to non-project actions.

(3) The notice requirements of this section shall be completed no less than ten days prior to the hearing.

~~23.32.120~~ ~~No action for seven days after publication.~~ No major action on a proposal for which an EIS has been required shall be taken prior to seven (7) days following the issuance of the final EIS.

~~23.32.160~~ ~~SEPA Rules--adoption by reference.~~ Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

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
197-11-420	EIS preparation
197-11-425	Style and size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-449	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

Chapter 23.36

Substantive Authority

Sections:

23.36.010	Authority to condition
23.36.020	Authority to deny
23.36.030	Environmental policies
23.36.040	SEPA Rules--adoption by reference

~~23.36.010~~ ~~Authority to condition.~~ Snohomish County may attach conditions to a permit or approval for a proposal provided that:

(1) Such conditions 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 decisionmaker. The decisionmaker shall cite the county SEPA policy that is the basis of any condition under this title. After such a decision, the county 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 a 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.

(2) The mitigation measures included in such conditions are reasonable and capable of being accomplished.

(3) The 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.

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

(5) Such conditions are based on one or more policies in Section 23.36.030 and cited in the license or other decision document.

23.36.020--Authority to deny. Snohomish County may deny a permit or approval for a proposal on the basis of SEPA provided that:

(1) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this ordinance; and

(2) A finding is made that there are no reasonable mitigation measures capable of being accommodated that are sufficient to mitigate the identified impact; and

(3) The denial is based on one or more policies identified in Section 23.36.030, and identified in writing in the decision document.

23.36.030--Environmental policies. Snohomish County designates and adopts by reference the following policies as the basis for the county's exercise of authority pursuant to this chapter:

(1) The county 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:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities, and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(2) The county 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.

(3) The county adopts by reference the policies contained in the following county ordinances, resolutions and plans as currently adopted or as hereafter amended:

- (1) Snohomish County Comprehensive Plan and Subarea Plans
- (2) Shoreline Management Master Program (Title 21)
- (3) Agricultural Preservation Plan
- (4) Zoning Code (Title 18)
- (5) Drainage Ordinance (Title 24)
- (6) Road Ordinance (Title 26B)
- (7) Flood Hazard Ordinance (Title 27)
- (8) Noise Ordinance (Title 10.01)
- (9) Subdivision Ordinance (Title 19)
- (10) Short Subdivision Ordinance (Title 20)

(11) Large Tract Segregation Ordinance (Title 20A).

~~23.36.040~~ ~~SEPA Rules--adoption by reference.~~ Snohomish County adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-650 Purpose of this Part
197-11-655 Implementation
197-11-660 Substantive authority and mitigation

Chapter 23.40

APPEALS

Sections:

23.40.010 General
23.40.020 Appeals of Conditions or Denials
of Administrative Permits
23.40.030 Appeals of Environmental Determinations Made
For Hearing Examiner Actions
23.40.040 Judicial Review

~~23.40.010~~ General.

(1) Except as provided by Section 23.40.030, any appeal of an environmental determination made pursuant to this Title shall be combined with an appeal of the final decision on the governmental action for which such environmental determination was made.

(2) Appeals shall be limited to review of a final threshold determination and the adequacy of a final EIS. Appeals of intermediate steps under this Title (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(3) Except as provided by Section 23.40.030, appeals under this Title may be filed by any person with standing to appeal the final decision on the underlying governmental action for which an environmental determination was made and shall be filed within the time limits of and processed according to, the procedures governing appeals of such final decisions, Provided: that appeals under this title may also be filed to review environmental determinations made after supplemental review including determinations made during proceedings conducted following remand from an appeal.

(4) Appeals of environmental determinations for administrative permits for which appeals are not otherwise provided by county code shall be conducted in accordance with the provisions of Section 23.40.020.

(5) All appeals of environmental determinations made pursuant to this Title shall be conducted on the record according to the provisions of SCC Chapter 2.02 and all testimony shall be given under oath. An electronic transcript shall be made for all appeal hearings. The record of an appeal shall consist of all written and documentary evidence considered, the transcript of the testimony presented and the written findings, conclusions and the final decision issued in the appeal. The record of

the original appeal shall be considered in any subsequent appeal. In any appeal, the procedural determinations made pursuant to this Title by the responsible official shall be entitled to substantial weight.

(6) All appeals under this title shall be governed by the procedures set forth in this chapter and except as provided herein, no appeal of the conditioning or denial of a proposal by a non-elected official shall be appealable under RCW 43.21C.060 to the County Council.

23.40.020--Appeals of Conditions or Denials of Administrative Permits.

If an administrative permit for which no administrative appeal procedure is otherwise provided by county code is conditioned or denied based solely upon the authority of SCC Chapter 23.36, the conditional approval or denial of such permit, together with the environmental determinations for such permit stated in Section 23.40.010(2), may be appealed by any person aggrieved by such conditional approval or denial. Any such appeal shall be filed in writing with the department of planning and community development within fifteen days of the date of the decision on the permit. Such appeal shall state fully the grounds therefore, shall be accompanied by an appeal fee of \$50.00, and shall be processed in the manner prescribed for appeals of administrative determinations under Chapters 2.02 and 18.88 SCC and Section 23.40.010(5). Notice of appeal hearings conducted pursuant to this section shall be mailed to other agencies with jurisdiction and to all property owners of record within a three hundred foot radius of the external boundaries of the property subject to the permit (or denial) not less than 10 days prior to the hearing.

23.40.030--Appeals of Environmental Determinations Made For Hearing Examiner Actions.

(1) Appeals of a final threshold determination or a final EIS pertaining to the following:

- (a) a rezone considered pursuant to SCC Section 18.92.065
- (b) a preliminary plat considered pursuant to SCC chapter 19.16
- (c) a conditional use permit considered pursuant to SCC chapter 18.88
- (d) a special use permit considered pursuant to SCC chapter 18.88
- (e) a short plat considered pursuant to SCC Section 20.20.080(2)(D)
- (f) A shoreline substantial development permit considered pursuant to SCC Sections 21.16.050 and 21.16.070

may be brought by any aggrieved person at the Hearing Examiner hearing for such governmental action.

(2) In any hearing on the governmental actions specified in subsection (1) of this section, the Hearing Examiner shall have the authority to consider the adequacy of the environmental determinations made by the lead agency for such governmental actions.

23.40.040--Judicial Review.

(1) No person may seek judicial review of environmental determinations made pursuant to this Title unless such person has first appealed such environmental determinations using the procedures set forth in the preceding sections of this chapter.

(2) Proceedings for judicial review shall be governed by RCW sections 43.21C.075(5), (6), (7), (8) and (9) and 43.21C.080.

(3) Pursuant to the requirements of RCW 43.21C.075(5)(a), the clerk of the county council shall issue an official notice stating the date and place for commencing a judicial appeal at the time the council's decision on an appeal brought under this chapter is issued. Such notice shall state that a judicial appeal may be commenced on or before the thirtieth day (the date of which shall be stated) following the issuance of the council's decision by bringing an action in the Superior Court of Snohomish County at Everett, Washington.

(4) The notice of intent to commence a judicial appeal required by RCW 43.21C.075(5)(a) shall be filed with the clerk of the county council.

Chapter 23.44

Forms

Sections:

23.44.040 SEPA Rules--adoption by reference

~~23.44.040 SEPA Rules--adoption by reference.~~ Snohomish County adopts the following forms and sections by reference:

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

Chapter 23.45

Sunset

Section:

23.45.010 Sunset Date

~~23.45.010 Sunset Date.~~ This title is hereby repealed December 31, 1985.

Dated

September 19, 1984

Donald J. Butler
Chairman

ATTEST:

Ellie Snyder
Clerk of the Council

ATTEST:

Donna Lynn Johnson

Willis D. Tucker
County Executive

APPROVED

VETOED

EMERGENCY

Date 9-20-84

PUBLISHED _____ and _____

WAC 197-11-040 Definitions. The terms used in these rules are explained in Part Eight, Definitions, 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 197-11 refer to chapter 197-11 of the Washington Administrative Code (chapter 197-11 WAC).

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 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.

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 decisionmaking

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 197-11-060(5).

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

(3) *Applications and rulemaking.* The timing of environmental review for applications and for rulemaking 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 (197-11-906).

(b) For rulemaking, 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 (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 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 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.

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 decisionmaking 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 197-11-330 and 197-11-444;

(c) For an environmental impact statement, is considered its "scope" (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 197-11-740 and of "impacts" in 197-11-752), with attention to impacts that are likely, not merely speculative. (See definition of "probable" in 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 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, 197-11-792) may be wider than the impacts for which mitigation measures are required of applicants (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 decisionmaking processes. (See 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, 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 197-11-060(4)(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 EIS's, 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 197-11-070.

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 fifteen-day period prior to agency action (197-11-340(2)), and FEISs require a seven-day period prior to agency action (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 197-11-800(18), 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).

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 197-11-100.

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.

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 197-11-960 in connection with filing an application (see 197-11-315). Additional information may be required at an applicant's expense, but not until after initial agency review of the checklist (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 (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 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 (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 197-11-420.

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; and

(4) Integrating SEPA into early planning to ensure appropriate consideration of SEPA's policies and to eliminate duplication and delay.

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 (197-11-720) except as follows:

(a) The proposal is not exempt under 197-11-908, environmentally sensitive 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 (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 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.

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.

(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 (197-11-784).

(3) In most cases, the time to complete a threshold determination should not exceed fifteen days. Complex proposals, those where additional information is needed, and/or those accompanied by an inaccurate checklist may require additional time. Upon request by an applicant, the responsible official shall select a date for making the threshold determination and notify the applicant of such date in writing.

(4) All threshold determinations shall be documented in:

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

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

WAC 197-11-315 Environmental checklist. (1) Agencies:

(a) Shall use the environmental checklist substantially in the form found in 197-11-960 to assist in making threshold determinations for proposals, except for: Public proposals on which the lead agency has decided to prepare its own EIS, or proposals on which the lead agency and applicant agree an EIS will be prepared.

(b) May use an environmental checklist whenever it would assist in their planning and decisionmaking, but

shall not require an applicant to prepare a checklist under SEPA, unless a checklist is required by (1)(a) of this section.

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

(3) 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.

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 (197-11-960), and any additional information furnished under 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.

(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 197-11-055 through 197-11-070 and Part Six.

(3) In determining an impact's significance (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 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.

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 (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 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 197-11-055 through 197-11-070.

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 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (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.

(a) An agency shall not act upon a proposal for fifteen 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 197-11-800(2)(f) or 197-11-880;

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

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

(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 197-11-510.

(c) Any person, affected tribe, or agency may submit comments to the lead agency within fifteen 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 fifteen-day period (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 non-exempt 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 197-11-070).

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.

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 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 (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 (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 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.

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 197-11-340, 197-11-360, and Part Six.

(2) The responsible official's threshold determination:

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

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

(c) Shall not apply when withdrawn by the responsible official under 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 decisionmaking unless subsequently changed, reversed, or withdrawn.

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 decisionmakers 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 decisionmaking 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.

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 decisionmaker.

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

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 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 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 197-11-620.

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

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 (197-11-055). The statement shall be prepared early enough so it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made. EISs may be "phased" in appropriate situations (197-11-060(5)).

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 (197-11-360). 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. 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 decisionmaking 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.

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.

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 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 (197-11-914).

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 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 (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 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 (197-11-600 and 197-11-635).

WAC 197-11-430 Format. (1) A cover letter or memo from the lead agency shall precede the EIS (197-11-435). A fact sheet (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 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 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 197-11-560.

(c) Additional flexibility is provided in 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 197-11-444.

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

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

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 decisionmakers as known at the time of issuance;

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

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

(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 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 decisionmakers and the public (see 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 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 (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 (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 197-11-444.

(7) Appendices. Comment letters and responses shall be circulated with the FEIS as specified by 197-11-560. Technical reports and supporting documents need not be circulated with an EIS (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 (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.

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 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.

WAC 197-11-443 EIS contents when prior nonproject EIS. (1) The provisions for phased review (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.

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) Ground water 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 197-11-444 may be combined.

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 decisionmakers. Rather, an environmental impact statement analyzes *environmental* impacts and must be used by agency decisionmakers, 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 decisionmaking 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 (197-11-960) and 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 (197-11-440(8) and 197-11-640). Agencies may use the scoping process to help identify issues of concern to citizens.

WAC 197-11-450 Cost-benefit analysis. A cost-benefit analysis (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.

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 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 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.

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 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 197-11-560.

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.

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 (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 197-11-340(2).

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

(4) *Scoping.*

(a) Agencies shall circulate the DS and invite comments on the scope of an EIS, as required by 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 197-11-410.

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

(5) *DEIS.*

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

(b) The commenting period shall be thirty days unless extended by the lead agency under 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 (197-11-535). Notice of such public hearings shall be given under 197-11-510 and may be combined with other agency notice.

(b) In conjunction with the requirements of 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 state-wide 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 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 (197-11-360(4)), agencies shall give notice under 197-11-510 and receive comments for fifteen days.

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

(9) *Appeals.* Notice provisions for appeals are in 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.

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.

WAC 197-11-508 SEPA REGISTER. (1) The department of ecology shall publish and mail each week a SEPA REGISTER, giving notice of all environmental documents required to be sent to the department of ecology under these rules, specifically:

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

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

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

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

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

(3) Agencies are encouraged to subscribe to the SEPA REGISTER.

(4) The department:

(a) May establish a reasonable format for publishing the required notices in the SEPA REGISTER;

(b) 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 subscribe and refer to the SEPA REGISTER for notice of SEPA actions which may affect them.

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 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 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.

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 197-11-510 are met.

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 (197-11-560).

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.

... 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 (197-11-440(2)), which shall be circulated under 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 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 197-11-460.

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 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.

under the National Environmental Policy Act (NEPA) by following 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 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 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 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.

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 (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.

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 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

(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.

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 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 decisionmaker; 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.

**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.

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 decisionmaking. 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 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.

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.

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 decisionmaker 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 decisionmakers 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 decisionmaker, agencies are encouraged to make that information available to the public before the decision is made.

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 decisionmaker. The decisionmaker 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.

(2) Decisionmakers 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 (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 (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.

(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" (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 (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 (197-11-752).

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

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

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

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

WAC 197-11-702 Act. "Act" means the State Environmental Policy Act of 1971, chapter 43.21C RCW, as amended, which is also referred to as "SEPA".

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.

WAC 197-11-700 Definitions. (1) The terms used in these rules shall be uniform throughout the state as applied to SEPA (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 (197-11-906).

(2) Unless the context clearly requires otherwise:

(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 (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).

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.

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.

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.

WAC 197-11-712 Affecting. "Affecting" means having, or may be having, an effect on (see 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)).

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 197-11-704, except the judiciary and state legislature. An agency is any state agency (197-11-796) or local agency (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

197-11-920; the list may be expanded in agency procedures (197-11-906). The appropriate agencies must be consulted in the environmental impact statement process, as required by 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.

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.

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

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 (197-11-305).

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. (197-11-680).

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.

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.

WAC 197-11-728 County/city. "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.

WAC 197-11-730 Decisionmaker. "Decisionmaker" means the agency official or officials who make the agency's decision on a proposal. The decisionmaker and responsible official are not necessarily synonymous, depending on the agency and its SEPA procedures (197-11-906 and 197-11-910).

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 (197-11-310 and 197-11-340). The DNS form is in 197-11-970.

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 (197-11-310 and 197-11-360). The DS form is in 197-11-980 and must be used substantially in that form.

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 (197-11-405).

WAC 197-11-740 Environment. "Environment" means, and is limited to, those elements listed in 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.

WAC 197-11-742 Environmental checklist. "Environmental checklist" means the form in 197-11-960. Rules for its use are in 197-11-315.

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).

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 decisionmaking.

WAC 197-11-748 Environmentally sensitive area. "Environmentally sensitive area" means an area designated and mapped by a county/city under 197-11-908. Certain categorical exemptions do not apply within environmentally sensitive areas (197-11-305, 197-11-908, and Part Nine of these rules).

WAC 197-11-750 Expanded scoping. "Expanded scoping" is an optional process that may be used by agencies to go beyond minimum scoping requirements.

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 197-11-444.

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 (197-11-600 and 197-11-635).

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.

WAC 197-11-758 Lead agency. "Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements (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" (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 197-11-330, 197-11-455, 197-11-460) and its decisionmaker, who is at a minimum responsible for substantive determinations (such as 197-11-448, 197-11-655, and 197-11-660).

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.

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.

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" (197-11-794).

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 197-11-350.

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.

WAC 197-11-770 Natural environment. "Natural environment" means those aspects of the environment contained in 197-11-444(1), frequently referred to as natural elements, or resources, such as earth, air, water, wildlife, and energy.

WAC 197-11-772 NEPA. "NEPA" means the National Environmental Policy Act of 1969 (42 USCA

4321 *et seq.*; P.L. 91-190), that is like SEPA at the federal level. The federal NEPA regulations are located at 40 CFR 1500 *et seq.*

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 (197-11-704).

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 (197-11-060(5)). Phased review may be used for a single proposal or EIS (197-11-060).

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 197-11-700(2)).

WAC 197-11-780 Private project. "Private project" means any proposal primarily initiated or sponsored by an individual or entity other than an agency.

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 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.

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 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.

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 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 (197-11-792).

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 (197-11-910).

WAC 197-11-790 SEPA. "SEPA" means the State Environmental Policy Act of 1971 (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.

WAC 197-11-792 Scope. (1) "Scope" means the range of proposed actions, alternatives, and impacts to be analyzed in an environmental document (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 197-11-060(3) or 197-11-305(1)); or

(iii) Similar (proposals that have common aspects and may be analyzed together under 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) 197-11-060 provides general rules for the content of any environmental review under SEPA; Part Four and 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.

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 (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 (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.

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 (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) 197-11-330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

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 197-11-704, except the judiciary and state legislature.

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 (197-11-310 and 197-11-330(1)(b)).

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.

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 197-11-305.

(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 (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 except: 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.* The following appropriations of water shall be exempt, 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 pump-house reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

(a) Appropriations of fifty cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy.

(b) Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of ground water, for any purpose.

(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) *School closures.* The adoption and implementation of a plan, program, or decision for the closure of a school or schools shall be exempt. Demolition, physical modification or change of a facility from a school use shall not be exempt under this subsection.

(8) *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.

(9) *Variances under 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.

(10) *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 USC 1341) shall be exempt.

(11) *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 (197-11-704).

(12) *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.

(13) *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.

(14) *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, pawn-brokers, 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.

(15) *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 (see also 197-11-800(7)).

(16) *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.

(17) *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 197-11-800 and 197-11-880.

(18) *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 197-11-070.)

(19) *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.

(20) *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.

(21) *Building codes*. The adoption by ordinance of all codes as required by the state building code act (chapter 19.27 RCW).

(22) *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.

(23) *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.

(24) *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.

(25) *Natural resources management*. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) All class I, II, III forest practices as defined by RCW 76.09.050 or regulations thereunder.

(b) 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.

(c) Licenses or approvals to remove firewood.

(d) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(e) Issuance of leases for Christmas tree harvesting or brush picking.

(f) Issuance of leases for school sites.

(g) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(h) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(i) 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.

(j) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(k) 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.

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.

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) Other agencies 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 (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).

WAC 197-11-600 When to use existing environmental documents. (1) This section contains criteria for determining whether an environmental document must

WAC 197-11-610 Use of NEPA documents. (1) An agency may adopt any environmental analysis prepared

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).

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 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 delands, 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.

WAC 197-11-922 Lead agency rules. The rules for deciding when and how an agency is the lead agency (197-11-050) are contained in this part. The method and criteria for lead agency selection are in 197-11-924. Lead agency rules for different types of proposals as well as for specific proposals are in 197-11-926 through 197-11-940. Rules for interagency agreements are in 197-11-942 through 197-11-944. Rules for asking the department of ecology to resolve lead agency disputes are in 197-11-946. Rules for the assumption of lead agency status by another agency with jurisdiction are in 197-11-948.

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 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 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 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 (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.

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.

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 197-11-926.

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.

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.

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.

WAC 197-11-938 Lead agencies for specific proposals. Notwithstanding the lead agency designation criteria contained in 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 all private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be the department of natural resources; however, for any proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.

(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 all proposals which are being processed under the Environmental Coordination Procedures Act of 1973 (ECPA), chapter 90.62 RCW, the lead agency shall be determined under the standards of these rules.

(7) 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).

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) For proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent or more of design capacity, the lead agency shall be the department of ecology.

(13) 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.

WAC 197-11-942 Agreements on lead agency status. Any agency may assume lead agency status if all agencies with jurisdiction agree.

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.

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.

WAC 197-11-948 Assumption of lead agency status. (1) An agency with jurisdiction over a proposal,

upon review of a DNS (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 197-11-985. Assumption of lead agency status shall occur only within fifteen days of issuance of a DNS.

(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 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.

PART ELEVEN — FORMS

RCW 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)?

TO BE COMPLETED BY APPLICANT

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 off-site 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:

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EVALUATION FOR
AGENCY USE ONLY**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 floodplain? 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 ground water be withdrawn, or will water be discharged to ground water? 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.

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EVALUATION FOR
AGENCY USE ONLY

c. Water Runoff (including storm water):

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.

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EVALUATION FOR
AGENCY USE ONLY

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.

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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 displace?
- 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:

TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE ONLY**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 off-site 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.

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EVALUATION FOR
AGENCY USE ONLY

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.

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EVALUATION FOR
AGENCY USE ONLY

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:

RCW 197-11-960 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 (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 _____

RCW 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 under 197-11-340(2); the lead agency will not act on this proposal for 15 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.

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.

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 _____

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 NON-COMPLIANCE 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 _____