

RESOLUTION NO. 2643

A RESOLUTION of the Port Commission of the Port of Seattle implementing the State Environmental Policy Act and the State Environmental Policy Act Guidelines of the Council on Environmental Policy through the adoption of Port of Seattle Environmental Guidelines and Procedures for determining and considering the environmental impact of actions taken by the Port and repealing certain other resolutions pertaining to the same subject matter.

WHEREAS the Port of Seattle (hereinafter referred to as the "Port") is subject to the provisions of the State Environmental Policy Act of 1971 (RCW 43.21C) hereinafter referred to as SEPA, and the SEPA Guidelines adopted by the Council on Environmental Policy, and

WHEREAS the SEPA Guidelines require the Port to adopt its own guidelines within 180 days of January 16, 1976. NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle:

Section 1: The Port, its officers and employees shall follow and utilize the SEPA Guidelines which are by this reference incorporated herein as Attachment "A". All provisions of this Resolution shall be read and interpreted in conjunction with such SEPA Guidelines to determine their full intent and application.

Section 2: Responsible Official

A. The Responsible Official for all Port actions of a project nature shall be the head of the department initiating the project unless the General Manager shall determine that the Capital Improvements Committee (CIC) should serve as the Responsible Official. When the CIC is the Responsible Official, it may delegate specific responsibility to the appropriate department or official. While any

department head may be the Responsible Official, the usual pattern of responsibility shall be:

- (1) the Chief Engineer for construction at all locations, and repair and renovation projects on the waterfront;
- (2) the Director of Aviation for repair and renovation projects at the Airport; and
- (3) the Director of Real Estate for tenant improvements where such improvements are undertaken by the tenant for his own account.

B. The Responsible Official for all Port actions on a non-project nature shall be the General Manager. The General Manager may delegate specific responsibility to appropriate department officials.

C. The Responsible Official for all Port licensing shall be the head of the department having jurisdiction over the subject matter. Licensing, as defined in the SEPA Guidelines, includes any form of written permission given by the Port to any person to engage in an activity.

- (1) For such situations, the applicant shall prepare the environmental checklist and provide any other information the responsible official may reasonably require to make the threshold determination. In addition, the Port may direct the private applicant to prepare the environmental impact statement (EIS) under the direction of the Responsible Official pursuant to WAC 197-10-420.

Section 3:

EIS Procedures

A. Environmental Checklist

The head of the department initiating a Port action (or the applicant for a private project, when appropriate) shall complete the environmental checklist as provided in WAC 197-10-310. Department heads are authorized to prepare any preliminary data and information necessary to complete the checklist.

B. Threshold Determination

The Responsible Official shall review the checklist and all other appropriate information, and make a threshold determination, as provided in WAC 197-10-320, -330, -340 and -350.

C. Declaration of Non-Significance

If the Responsible Official makes a declaration of non-significance, the Port may proceed with the action, subject to the notice requirement and waiting period set forth in WAC 197-10-340 and subject to authorized procedures in Port Resolution No. 2590.

D. EIS Preparation

If the Responsible Official makes a declaration of significance, the draft and final EIS shall be prepared in accordance with the SEPA Guidelines. Proposed actions may be referred to the Commission for review of priorities and funding prior to EIS preparation. If referred to the Commission, an EIS must be prepared prior to commencing any major action in regard to the proposal.

All proposals for which the EIS is estimated to cost in excess of \$30,000 shall be referred to the Commission along with all other proposals specifically referred to it by the General Manager in his discretion. For all other proposals, the General Manager shall have the authority to direct the preparation of the draft EIS without prior referral to the Commission.

The EIS preparation authorized in this paragraph may include engineering, technical studies, general planning and other services required to prepare an adequate EIS and may include the services of Port employees or consultants.

E. Segmented EIS

Proposed Port actions may be divided into segments as provided in WAC 197-10-060(4). When such segmentation occurs, an EIS shall be prepared for each segment and the initial EIS shall describe the later segment of the proposal, as well as identify in a general manner the environmental impact of the entire proposal. EIS's prepared for subsequent segment may identify, incorporate by reference and summarize portions of preceding EIS's, provided any changed conditions are identified.

F. Public Hearings

(1) A public hearing shall be held on a proposed action when required by WAC 197-10-480 or when directed by the General Manager in his discretion. The Commission shall be notified in writing of all such hearings prior to the scheduled hearing.

- (2) The presiding officer at such public hearing shall be the Responsible Official or such other person designated by the General Manager or the Commission.

Section 4: Scope of Proposal

The proposal which is the subject of the threshold determination and EIS preparation, shall include both its direct and indirect impacts as well as all proposed activities which are functionally related to it. Future activities are functionally related to the present proposal if:

- (1) The future activity is an expansion of the present proposal, facilities operation of the present proposal or is necessary thereto;  
or
- (2) The present proposal facilitates or is a necessary prerequisite to future activities. However, contemporaneous or subsequent development need not be considered in the threshold determination unless there will be some causal connection between such development and one or more of the Port decisions necessary for the proposal in question.

Section 5: Exempt Activities

A. The Port's annual budget is solely a financial plan and does not authorize any capital project. Therefore, the Port's annual budget is categorically exempt from the threshold determination and EIS requirements pursuant to WAC 197-10-170(7) (c).

B. Planning & Research

The normal planning and research activities of the Port are included in the SEPA Guidelines' definition of "information collection and research" (WAC 19-10-170 (17) ). As such, these activities are categorically exempt from the threshold determination and EIS requirements.

C. Comprehensive Scheme

The comprehensive scheme of harbor improvements does not commit the Port to a particular course of action and is adopted at a time preliminary to the acquisition of real property by the Port. The acquisition of real property is kept categorically exempt from the threshold determination and EIS requirements pursuant to WAC 197-10-170 (9). Thus, an amendment to the comprehensive scheme of harbor improvements, being merely incidental to an exempt action is similarly exempt.

D. Permit Applications

Port permit applications are preliminary to any major actions on a proposal. The responsible official may therefore submit permit applications either after a declaration of non-significance has been made or after a preliminary environmental assessment adequate to identify major environmental impacts and mitigating measures has been completed. Permit applications may be submitted at an earlier time if necessary to obtain the cooperation or participation of another agency in carrying out or reviewing environmental assessments. However, no irreversible commitment to the project shall be made at the time of application.

Section 6: Emergency Actions

As provided in the SEPA Guidelines, Emergency Actions are exempt. Emergency Actions are actions which must be undertaken immediately, or within a time too short to allow full compliance with this ordinance, 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. Such Emergency Actions shall be exempt from the procedural requirements of this resolution. Emergency actions include but are not limited to:

- (1) Emergency dredging and disposal of dredged materials essential for safe passage of vessels;
- (2) Emergency construction required for safe passage of vehicles, vessels or aircraft; and
- (3) Emergency actions required by another governmental agency, including anti-hijacking measures and security.

Section 7: NEPA Statement

As provided in the SEPA Guidelines, the Port may utilize an adequate final EIS prepared pursuant to the National Environmental Policy Act ("NEPA") in lieu of a final EIS prepared under SEPA. Such a NEPA EIS must meet the criteria set forth in WAC 197-10-650, and may be supplemented pursuant to WAC 197-10-652.

The Port may participate with a federal agency in the joint preparation of an EIS adequate to satisfy both NEPA and SEPA.

Section 8: Supplementation and Use of Existing EIS

As provided in the SEPA Guidelines, the Port may adopt and utilize a previously prepared EIS, or portion thereof, to satisfy SEPA. Such adoption or utilization must meet the criteria set forth in WAC 197-10-660.

Section 9: Notice of Action

The Port, the applicant for, or the proponent of, an action may publish notice of action pursuant to RCW 43.21C.080 for any action. Such notice shall conform to the form of the notice prescribed by the Department of Ecology and RCW 43.21C.080. The Notice shall be published and shall be filed with the Department of Ecology as provided in RCW 43.21C.080.

Section 10: Integration of SEPA with the State Economic Policy Act

The Port shall give appropriate consideration in the promulgation of rules to economic values along with environmental, social, health and safety considerations.

Section 11: Procedures When Consulted Agency

Under ordinary conditions, the Port will not elect to serve as a consultant agency for projects being undertaken by others. Prior approval of the General Manager is necessary before the Port may elect to serve as a consultant agency. When the Port elects to be a consultant agency, the Senior Environmental Planner shall be responsible for coordinating and responding for the Port under the general policy direction of the General Manager. The agency seeking the consultation of the Port should direct their inquiries to the Senior Environmental Planner.



Section 12: SEPA Public Information Center

The Port of Seattle Library shall be the center for all environmental registers, environmental impact statements (EIS), negative declarations and related documents as required by WAC 173-10-805 and such material shall be available for public review. Responsible officials shall, prior to undertaking a check list analysis, obtain a code number from the Library for each project. Thereafter, all related documents shall be filed and retained under such code number.

Section 13: Severability Clause

If any provision of this Resolution, or its application to any person in circumstance is held invalid, the remainder of the Resolution, or the application of the provision to other persons or circumstances is not affected.

Section 14: Attachments

Attachments to this Resolution are for the Commission and, with the exception of the SEPA Guidelines, are not adopted as part of this Resolution.

Section 15: Repealer

Resolution Nos. 2404 (Adopted December 14, 1971), 2514 (Adopted February 26, 1974) and 2621 (Adopted February 10, 1976) previously passed by the Port Commission and dealing with the same subject are hereby repealed.

ADOPTED by the Port Commission of the Port of Seattle  
this 13th day of July 1976, and duly authenticated in  
open session by the signatures of the Commissioners voting in favor  
thereof and the Seal of the Commission duly affixed.

*Henry T. Simon*

*John B. Blair*

*Paul Fuller*

*Alvin K. Kottaris*

*Mark D. Adlum*

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**F O R E W O R D**

In 1974, the Washington State Legislature established a new agency, the Council on Environmental Policy (CEP), and charged it with the responsibility of adopting "rules of interpretation and implementation" of the State Environmental Policy Act of 1971 (SEPA).

Pursuant to this legislative mandate, CEP, after extensive drafting and public hearings, adopted final SEPA guidelines on December 12, 1975. These guidelines have been filed with the Code Reviser as chapter 197-10 of the Washington Administrative Code and become effective January 16, 1976.

It is the intention of CEP that these regulations promulgated herein will reduce duplicative and wasteful practices, establish effective and uniform procedures, encourage public involvement and promote certainty with respect to the requirements of SEPA.

**--- NOTE ---**

As directed by the Legislature, the duties of the Council on Environmental Policy are transferred to the Washington State Department of Ecology on July 1, 1976. After this date, all communications relative to these guidelines should be directed to:

Environmental Review  
Department of Ecology  
Olympia, Washington 98504

Phone: (206)  
753-6890  
6891  
6892

# SEPA GUIDELINES

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## PRELIMINARY SECTIONS AND DEFINITIONS

WAC 197-10-010 **AUTHORITY.** This chapter is promulgated pursuant to the authority granted in RCW 43.21C.110.

WAC 197-10-020 **PURPOSE.** (1) The purpose of this chapter is to establish statewide guidelines interpreting and implementing the state environmental policy act of 1971 (SEPA). Each state and local agency of government must adopt its own rules, ordinances or resolutions governing the implementation of SEPA consistent with the provisions of this chapter.

(2) These guidelines were developed to establish methods and means of implementing SEPA "in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act."

(3) These guidelines are not intended to govern compliance by state or local agencies with respect to the national environmental policy act of 1969 (NEPA). In those situations where state or local agencies are required by federal law or regulations to perform some element of compliance with NEPA, such agency compliance will be governed by the applicable federal statute and regulations and not by these guidelines.

### WAC 197-10-025 **SCOPE AND COVERAGE OF THIS CHAPTER.**

(1) It is the intent of the council on environmental policy (CEP) that compliance with the guidelines of this chapter, and agency guidelines consistent therewith, shall constitute complete procedural compliance with SEPA for any "action" as defined in WAC 197-10-040(2).

(2) The guidelines of this chapter do not address the issue of the substantive effect that the enactment of SEPA has upon agency decision-making.

(3) The guidelines of this chapter contain no sections relating to the notice/statute of limitations provisions of RCW 43.21C.080, .085 and .087. Persons and agencies wishing to utilize these provisions shall follow the statutory language and any applicable regulations of the department of ecology.

WAC 197-10-030 **INTEGRATION OF SEPA PROCEDURES WITH OTHER GOVERNMENTAL OPERATIONS.** To the fullest extent possible, the procedures required by these guidelines shall be integrated with existing planning and licensing procedures utilized by governmental agencies in the state. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort.

WAC 197-10-040 **DEFINITIONS.** The following words and terms have the following meanings for the purposes of this chapter, unless the context indicates otherwise:

(1) Acting Agency. Acting agency means an agency with jurisdiction which has received an application for a license, or which is the initiator of a proposed action.

(2) Action. Action means an activity potentially subject to the environmental impact statement requirements of

RCW 43.21C.030(2)(c) and (2)(d). [See the provisions of WAC 197-10-170, -175 and -180 for activities that are exempted from the threshold determination and environmental impact statement requirements of SEPA and these guidelines, due to CEP's determination that such activities are minor, not "major," actions even though such activities are within one of the subcategories below.] All actions fall within one of the following subcategories:

(a) Governmental licensing.

(b) Governmental action of a project nature. This includes and is limited to:

(i) the decision by an agency to undertake any activity which will directly modify the physical environment, whether such activity will be undertaken directly by the agency or through contract with another, and

(ii) the decision to purchase, sell, lease, transfer or exchange natural resources, including publicly owned land, whether or not it directly modifies the environment.

(c) Governmental action of a non-project nature. This includes and is limited to:

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

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

(iii) the adoption of any policy, plan or program which will govern the development of a series of functionally related major actions, but not including any policy, plan or program for which approval must be obtained from any federal agency prior to implementation;

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

(v) adoptions or approvals of utility, transportation and solid waste disposal rates;

(vi) capital budgets; and

(vii) road, street and highway plans.

(3) Agencies with Expertise. Agencies with expertise means those agencies to which a draft environmental impact statement shall be sent pursuant to WAC 197-10-465, unless they are also agencies with jurisdiction.

(4) Agencies with Jurisdiction. Agencies with jurisdiction means those agencies from which a non-exempt license is required for a proposal or any part thereof, or which will act upon an application for a grant or loan for a proposal, or agencies which are proposing or initiating any governmental action of a project or non-project nature. The term does not include those agencies authorized to adopt rules or standards of general applicability which govern the proposal in question, when no license or approval is required for specific proposals; nor does the term include agencies, involved in approving grants or loans, which serve only as conduits between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are instrumentalities of the federal government from which a license is required, or which will receive an application for a grant or loan for a proposal.

(5) Agency or Agencies. Agency or agencies mean all state agencies and local agencies as defined in this section. The term does not include any agency or division of the federal government. Whenever a specific agency has been named in these guidelines and the functions of that agency have been transferred to another agency, then the term shall mean such successor agency.

(6) CEP. CEP means the council on environmental policy.

(7) Consulted Agency. Consulted agency means any agency with jurisdiction or with expertise which is consulted, or from which information is requested by a lead agency during the threshold determination, pre-draft consultation, or consultation on a draft environmental impact statement.

(8) County/City. County/city means a county, city or town. For the purposes of this chapter, duties and powers are assigned to a county, city or town as a unit, with the delegation of responsibilities among the various departments of a county, city or town being left to the legislative or charter authority of the individual counties, cities or towns.

(9) Declaration of Non-Significance. Declaration of non-significance means the written decision by the responsible official of the lead agency that a proposal will not have a significant adverse environmental impact and that therefore no environmental impact statement is required. A form substantially consistent with that in WAC 197-10-355 shall be used for this declaration.

(10) Declaration of Significance. Declaration of significance means the written decision by the responsible official of the lead agency that a proposal will or could have a significant adverse environmental impact and that therefore an environmental impact statement is required. A form substantially consistent with that in WAC 197-10-355 shall be used for this declaration.

(11) Draft EIS. Draft EIS means an environmental impact statement prepared prior to the final detailed statement.

(12) EIS. EIS means the detailed statement required by RCW 43.21C.030(2)(c). It may refer to either a draft or final environmental impact statement, or both, depending upon context.

(13) Environment. Environment means, and is limited to, those areas listed in WAC 197-10-444.

(14) Environmental Checklist. Environmental checklist means the form contained in WAC 197-10-365.

(15) Environmental Document. Environmental document means every written public document prepared or utilized as a result of the requirements of this chapter.

(16) Environmentally Sensitive Area. Environmentally sensitive area means an area designated and mapped by a county/city pursuant to WAC 197-10-177, and within which certain categorical exemptions do not apply.

(17) Final EIS. Final EIS means an environmental impact statement prepared to reflect comments to the draft EIS. It may consist of a new document, or of the draft EIS together with supplementary material prepared pursuant to WAC 197-10-570, -580 or -695.

(18) Lands Covered by Water. Lands covered by water means lands underlying the water areas of the state, 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.

(19) Lead Agency. Lead agency means the agency designated by the provisions of WAC 197-10-200 through -270 or -345, which is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(20) 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

thus includes the whole or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular project; a license required solely for revenue purposes is not included.

(21) Licensing. Licensing means the agency process in granting, renewing or modifying a license.

(22) List of Elements of the Environment. List of elements of the environment means the list contained in WAC 197-10-444 which must be attached to every environmental impact statement.

(23) Local Agency. Local agency means any political subdivision, regional governmental unit, district, municipal or public corporation including cities, towns and counties. The term does not include the departments of a city or county.

(24) Major Action. Major action means any "action" as defined in this section which is not exempted by WAC 197-10-170, -175 and -180.

(25) Non-Project EIS. Non-project EIS means an environmental impact statement prepared for a proposal for any governmental action of a non-project nature as defined under "action" in this section.

(26) Physical Environment. Physical environment means and is limited to those elements of the environment listed under "physical environment" in WAC 197-10-444(2).

(27) Private Applicant. Private applicant means any person or entity, other than an agency as defined in this section, applying for a license from an agency.

(28) Private Project. Private project means any proposal for which the primary initiator or sponsor is an individual or entity other than an "agency" as defined in this section.

(29) Proposal. Proposal means a specific request to undertake any activity submitted to, and which is seriously considered by, an agency or a decision-maker within an agency, as well as any action or activity which may result from approval of any such request. Further definition of the scope of a proposal for the purposes of lead agency determination, the threshold determination, and impact statement preparation is contained in WAC 197-10-060.

(30) Responsible Official. Responsible official means that officer or officers, committee, department or section of the lead agency designated by the lead agency's guidelines to undertake its responsibilities as lead agency [See WAC 197-10-820].

(31) SEPA. SEPA means the state environmental policy act of 1971, Chapter 43.21C., RCW, as amended.

(32) State Agency. State agency means any state board, commission or department except those in the legislative or judicial branches. The term includes the office of the governor and the various divisions thereof, state universities, colleges and community colleges.

(33) Threshold Determination. Threshold determination means the decision by a lead agency whether or not an environmental impact statement is required for a proposal.

#### WAC 197-10-050 USE OF THE ENVIRONMENTAL CHECKLIST FORM.

A form is provided in WAC 197-10-365 for an environmental checklist to be initially completed by an action proponent, whether public or private, either alone or together with the lead agency, usually in conjunction with a license application. This form must be used in the threshold determination; it will also

be helpful in making the lead agency designation and in pre-draft consultation. However, where there is an agreement between the proponent of a non-exempt action (whether a private applicant or an agency which is not the lead agency) and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. Where the action proponent and the lead agency are the same entity, and a decision to prepare an EIS has been made, then no checklist is required.

WAC 197-10-055 TIMING OF THE EIS PROCESS. (1) The primary purpose of the EIS process is to provide environmental information to governmental decision-makers to be considered prior to making their decision. The process should thus be completed before the decisions of an agency commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis. All agencies shall identify the times at which the EIS process must be completed either in their guidelines or on a case by case basis. The lead agency should require completion of the threshold determination and EIS (if required) at the earliest point in the planning and decision-making process when the principal features of a proposal and its impacts upon the environment can be reliably identified.

(2) At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action.

(3) When a proposed major action is a proposal for either a governmental action of a project nature or a governmental action of a non-project nature, and the proponent of the major action is also the lead agency, then the maximum time limits contained in these guidelines for the threshold determination and EIS process need not apply to the proposal.

WAC 197-10-060 SCOPE OF A PROPOSAL AND ITS IMPACTS FOR THE PURPOSES OF LEAD AGENCY DETERMINATION, THRESHOLD DETERMINATION, AND EIS PREPARATION. (1) The proposal considered by an acting agency during the lead agency determination procedure, and by the lead agency during the threshold determination and EIS preparation, shall be the total proposal including its direct and indirect impacts. Whenever the word "proposal" or the term "proposed action" is used in this chapter, the discussion in subsection (2) hereof is applicable. In considering the environmental impacts of a proposal during the threshold determination and EIS preparation, the discussion in subsection (3) hereof is applicable.

(2) The total proposal is the proposed action, together with all proposed activity which is functionally related to it. Future activities are functionally related to the present proposal if:

(a) The future activity is an expansion of the present proposal, facilitates operation of the present proposal or is

necessary thereto; or

(b) The present proposal facilitates or is a necessary prerequisite to future activities.

The scope of the proposal is not limited by the jurisdiction of the lead agency. The fact that future impacts of a proposal will require future governmental approvals shall not be a bar to their present consideration, so long as the plans for those future elements are sufficiently specific to allow some evaluation of their potential environmental impacts. Acting agencies and lead agencies should be alert to the possibility that a proposal may involve other agencies with jurisdiction which may not be taking any action until sometime in the future. (For example, in a proposal for a plat approval, another agency with jurisdiction may be the appropriate sewer district, even though installation of sewers may not occur until several years later.)

(3) The impacts of a proposal include its direct impacts as well as its reasonably anticipated indirect impacts. Indirect impacts are those which result from any activity which is induced by a proposal. These include, but are not limited to, consideration of impacts resulting from growth induced by the proposal, or the likelihood that the present action 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.) Contemporaneous or subsequent development of a similar nature, however, need not be considered in the threshold determination unless there will be some causal connection between such development and one or more of the governmental decisions necessary for the proposal in question.

(4) Proposals involving extensive future actions may be divided, at the option of the lead agency, into segments with an EIS prepared for each segment. In such event, the earlier EIS shall describe the later segments of the proposal and note that future environmental analysis will be required for these future segments. The segmentation allowed by this subsection shall not be applied at the threshold determination to determine that any segment of a more extensive significant proposal is insignificant; nor shall segmentation be applied so as to require significant duplication of analysis contained in an earlier EIS.

(5) For proposed projects, such as highways, streets, pipelines or utility lines or systems where the proposed action is related to a large existing or planned network, the lead agency may at its option treat the present proposal as the total proposal, or select only some of the future elements for present consideration in the threshold determination and EIS. These categorizations shall be logical with relation to the design of the total system or network itself, and shall not be made merely to divide a larger system into exempted fragments.

**WAC 197-10-100 SUMMARY OF INFORMATION WHICH MAY BE REQUIRED OF A PRIVATE APPLICANT.** (1) There are three areas of these guidelines where an agency is allowed to require information from a private applicant. These are:

- (a) Environmental checklist;
- (b) Threshold determination; and,
- (c) Draft and final EIS.

The responsible official may determine that any information supplied by a private applicant is insufficient and require further information, if in the judgment of the responsible offi-

cial the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may choose to voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) Environmental Checklist. A private applicant is required to complete an environmental checklist as set forth in WAC 197-10-365 either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. Agencies may not require a complete assessment or "mini-EIS" at this stage. [See WAC 197-10-310.]

(3) Threshold Determination. The lead agency shall make an initial review of a completed checklist without requiring more information from a private applicant. If, and only if, the lead agency determines as a result of its initial review that the information available to it is not reasonably sufficient to determine the environmental impacts of the proposal, the lead agency may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the lead agency, information accessible to the lead agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. [See WAC 197-10-330.]

(4) Draft and Final EIS Preparation. If the guidelines of the lead agency so provide, an EIS may be prepared by the applicant under the direction of the responsible official. [See WAC 197-10-420.] Alternatively, the responsible official may require a private applicant to provide data and information which is not in the possession of the lead agency relevant to any or all areas to be covered by an EIS. A private applicant shall not be required to provide information which is the subject of a pre-draft consultation request until the consulted agency has responded, or the forty-five days allowed for response by the consulted agency has expired, whichever is earlier.

## EXEMPTIONS

WAC 197-10-150 EXEMPTIONS EXCLUSIVE--CEP APPROVAL OF CHANGES IN EXEMPTIONS. (1) The only actions exempt from the threshold determination requirements of this chapter are those which are categorically exempted in WAC 197-10-170, -175 and -180. Except to specify emergencies as allowed in WAC 197-10-180, agencies shall add additional exemptions in their guidelines only after obtaining approval of CEP in accordance with either subsection (2) or (3) of this section.

(2) An agency may petition CEP, pursuant to RCW 34-.04.060, for adoption of additional exemptions or for deletion of existing exemptions through amendments to these guidelines. Such petition shall set forth the language of the amendment requested, the reasons for the requested amendment, the requesting agency's views on the impacts to the environment resulting from the activities covered by the pro-

posed amendment, and the approximate number of actions within any stated time period of the class proposed for exemption or deletion which come before the agency. CEP shall consider and make a determination upon any such petition within thirty days of receipt, and if the determination is favorable, shall initiate the rule-making procedures of Chapter 34.04, RCW, to amend these guidelines. Amendments to these guidelines will apply either generally or to specified classes of agencies. Affected agencies shall amend their guidelines accordingly after the amendments to the CEP guidelines become effective.

(3) An agency may also petition CEP for an immediate ruling upon any request to add or delete an exemption. If such a petition is granted, CEP will so notify the petitioning agency, which may immediately thereafter include the modification approved by CEP in its own guidelines. CEP may thereafter initiate procedures to amend these guidelines to incorporate the approved modification. Until the CEP guidelines are amended, any modification granted under this subsection shall apply only to the petitioning agency or agencies.

(4) CEP will provide public notice of all proposed amendments to these guidelines in the manner required by the Washington Administrative Procedures Act (Chapter 34.04., RCW). A copy of all CEP approvals under subsection (3) of this section will be given to all persons who have made request to CEP for advance notice of its rule-making proceedings.

(5) This section shall not be construed to limit the right of any interested person to petition CEP for the promulgation, amendment or repeal of any rule, including rules establishing categorical exemptions, in accordance with RCW 34.04.060.

WAC 197-10-160 NO PRESUMPTION OF SIGNIFICANCE FOR NON-EXEMPT ACTIONS. No presumption as to the significance of the impacts upon the environment shall be given to any proposed action merely because it was not exempted.

WAC 197-10-170 CATEGORICAL EXEMPTIONS. Governmental activities or approvals of activities of the types listed herein are not major actions, and proposals for such activities are exempted from the threshold determination and EIS requirements of SEPA and these guidelines:

(1) Minor new construction. The following types of construction shall be exempt except when undertaken wholly or in part on lands covered by water; the exemptions provided by this subsection apply to all governmental licenses required to undertake the construction in question, except rezones or any license governing emissions to the air or water:

(a) The construction of any residential structure of four dwelling units or less.

(b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than 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 feedlots.

(c) The construction of an office, school, commercial, recreational, service or storage building with less than 4,000 square feet of floor area, and with associated parking facilities designed for twenty automobiles or less.



(d) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(e) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(f) 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, highway landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right-of-way weed control), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights-of-way, channelization and elimination of sight restrictions at intersections, street lighting, guard-rail and barricade installation, installation of catch basins and culverts, and reconstruction of existing road bed (existing curb to curb in urban locations), including minor widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(g) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(h) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(i) The construction of a parking lot designed for twenty automobiles or less.

(j) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, III and IV forest practice under Chapter 200, Laws of 1975, Ex. Sess., or regulations promulgated thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation.

(k) The repair, 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.

(1) Grading, excavating, filling, septic tank installation, and landscaping necessary for any building or facility exempted by this subsection, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(m) Additions or modifications to or replacement of any building or facility exempted by this subsection when such addition, modification or replacement will not change the character of the building or facility in a way which would remove it from an exempt class.

(n) The demolition of any structure or facility, the construction of which would be exempted by this subsection, except for structures or facilities with recognized historical significance.

(2) 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 pumphouse 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 ten cubic feet per second or less of ground water, for any purpose.

(3) 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.

(4) 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) Fire department, police patrol and traffic law enforcement except where such involves any 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: PROVIDED, That no open burning shall be exempted under this subsection, nor shall the application of any pesticide or chemical. 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.

(e) Any suspension or revocation of a license for any purpose.

(5) 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 and safety codes, but not including building permits.

(c) Licenses to operate amusement devices and entertainment carnivals, circuses and other traveling shows, dances, music machines and theaters, including approval of use of public facilities for temporary civic celebrations, but not including licenses required for permanent construction of any of the above.

(d) Licenses for solicitation or door to door sales, private security and detective services, and taxicabs and other vehicles for hire: PROVIDED, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(e) Licenses for close-out sales.

(f) Licenses for food or drink services, sales and distribution.

(g) Licenses for the sale or display of fireworks.

(h) Animal control licenses.

(i) The renewal or reissuance of a license regulating any present activity or structure that was either exempted under this chapter, or the subject of a declaration of non-significance or an EIS, so long as no material changes have occurred since the determination of exemption, or completion of the prior declaration or EIS.

(6) Activities of the legislature. All actions of the state legislature are hereby exempted: PROVIDED, That this subsection shall not be construed to exempt the proposing of legislation by any agency.

(7) 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 previously 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.

(8) 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.

(9) 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 by an agency.

(b) The sale, transfer or exchange of any publicly owned real property by an agency to or with a private individual or governmental entity, but only if the property is not subject to an authorized public use.

(c) The lease of real property by an agency to a private individual or entity, or to an agency or federal agency, only 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.

(10) 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 subdivision 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, slope, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classification of land for current use taxation pursuant to Chapter 84.34, RCW, and classification and grading of forest land under Chapter 84.33, RCW.

(11) 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.

(12) 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.

(13) Variations under Clean Air Act. The granting of variances pursuant to RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(14) Burning permits. The issuance, revocation or suspension of permits for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting the issuance of burning permits shall not be exempt.

(15) Water quality certifications. The granting or denial of water quality certifications pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 USC § 1341) shall be exempt.

(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.

(17) Information collection and research. Proposals for basic data collection, research, resource evaluation and the conceptual planning of proposed actions shall be exempt. These may be for strictly information-gathering purposes, or as part of a study leading to a proposal which has not yet been approved, adopted or funded. This exemption does not include any agency action which commits the agency to proceed with the proposal.

(18) Utilities. The utility-related actions listed below shall be exempt: PROVIDED, That installation, construction or alteration on lands covered by water shall not be exempt for actions listed below. The exemption includes installation and construction, relocation when required by other governmental bodies, together with repair, replacement, maintenance, operation or alteration by an agency or private entity which does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including microwave 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 highway 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.

(g) All grants of franchises by agencies to utilities.

(h) All disposals of rights-of-way by utilities.

(i) All grants of rights-of-way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(19) 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 and IV forest practices as defined by Chapter 200, Laws of 1975, Ex. Sess., or regulations promulgated thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation.

(b) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land which had 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.

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

(20) Local improvement districts. The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-10-170 and -180.

(21) Non-actions. Proposals for activities which are not "actions" as defined in WAC 197-10-040(2) are not subject to the threshold determination and EIS requirements of this chapter.

WAC 197-10-175 EXEMPTIONS AND NON-EXEMPTIONS APPLICABLE TO SPECIFIC STATE AGENCIES. (1) Exemptions are established in this section which relate only to the specific activities identified within the named agencies. The exemptions of this section are in addition to the general exemptions of WAC 197-10-170 and -180 which apply to all agencies, including those named in this section, unless the general exemptions are specifically made inapplicable by this section.

(2) Department of motor vehicles. All licenses required under programs administered by the department of motor vehicles as of December 12, 1975 are hereby exempted, except the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

(a) Camping club promotional permits required by Chapter 19.105, RCW.

(b) Motor vehicle wrecker licenses required by Chapter 46.80, RCW. The provisions of WAC 197-10-170(5)(i) shall be applied to allow possible exemption of renewals of any of the above.

(3) Department of labor and industries. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are hereby exempted, except the issuance of any license for the manufacture or storage of explosives. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

(4) Department of natural resources. The following actions and licenses of the department of natural resources are hereby exempted:

(a) Forest closures, shutdowns and permit suspensions due to extreme or unusual fire hazards.

(b) Operating permits to use power equipment on forest land.

(c) Permits to use fuse on forest land.

(d) Log patrol licenses.

(e) Permits for drilling for which no public hearing is required pursuant to RCW 79.76.070 (geothermal test drilling).

(f) Issuance of permits for the dumping of forest debris and wood waste in forested areas.

(g) All timber sales which were analyzed in a non-project EIS previously prepared by the department, and all timber and forest product sales permits and leases not otherwise included in such EIS covering one hundred acres or less.

(h) Issuance of leases for mineral prospecting pursuant to RCW 79.01.616, or RCW 79.01.652, but not including issuance of subsequent contracts for mining.

(5) Department of fisheries. The following activities of the department of fisheries are hereby exempted:

(a) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.

(b) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a class I, II, III and IV forest practice as defined in Chapter 200, Laws of 1975, Ex. Sess., and regulations adopted thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation; and other hydraulic project approvals where the cost of the total proposal is five thousand (\$5,000.00) dollars or less except for proposals involving realignment into a new channel or gravel removal.

(c) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.

(d) All other licenses (other than those excepted in (b) and (c) above) authorized to be issued by the department as of December 12, 1975 except the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

(i) fish farming licenses, or other licenses allowing the cultivation of aquatic animals for commercial purposes;

(ii) licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and,

(iii) any license authorizing the discharge of explosives in water.

The provisions of WAC 197-10-170(5)(i) shall apply to allow possible exemption of renewals of the above licenses.

(6) Department of game. The following activities of the department of game are hereby exempted:

(a) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.

(b) The issuance of falconry permits.

(c) The issuance of all hunting or fishing licenses, permits or tags.

(d) Artificial game feeding.

(e) The issuance of scientific collector permits.

(f) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a class I, II, III or IV forest practice as defined in Chapter 200, Laws of 1975, Ex. Sess., and regulations adopted thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation; and other hydraulic project approvals where the cost of the total proposal is five thousand (\$5,000.00) dollars or less except for proposals involving realignment into a new channel or gravel removal.

(7) Department of social and health services. All actions under programs administered by the department of social and health services as of December 12, 1975 are hereby exempted, except the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

(a) The adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the possession, use and transfer of radioactive source material pursuant to RCW 70.98.080: PROVIDED, That the issuance, revocation or suspension of individual licenses thereto shall be exempt.

(b) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units pursuant to WAC 248-54-280.

(c) The approval of a new public water supply system designed or capable of servicing ten or more dwelling units, or the approval or additions or extensions to existing public water supply systems designed to or capable of servicing fifty or more dwelling units, pursuant to WAC 248-54-300.

(d) The approval of an application for a certificate of need pursuant to RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(e) The approval of an application for any system of sewerage and/or water general plan or amendments thereto pursuant to RCW 36.94.100.

(f) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department pursuant to WAC 248-92-040.

(g) The construction of any building, facility or other installation not exempt by WAC 197-10-170 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

(h) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of a private psychiatric hospital pursuant to WAC 248-22-015 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

(8) Department of agriculture. All actions under programs administered by the department of agriculture as of December 12, 1975 are hereby exempted, except for the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

(a) The approval of any application for a commercial registered feedlot pursuant to RCW 16.58.040 or Chapters 16-28 and 16-30, WAC.

(b) The issuance or amendment of any regulation respecting restricted-use pesticides pursuant to Chapter 15.58, RCW, that would have the effect of approving the use of a new pesticide.

(c) The approval of any application for registration of a pesticide that has not previously been registered pursuant to RCW 15.58.050.

(d) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-222-145 so as to permit sale of such pesticides to home and garden users.

(e) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established pursuant to WAC 16-222-160 so as to authorize sale of such pesticides to persons not holding an annual user permit.

(f) The removal of any pesticide from the list of highly toxic pesticide formulations established in WAC 16-222-180 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license.

(g) The approval of any additional permissible use of the pesticide DDT other than those uses established in WAC 16-223-220.

(h) The issuance of a license to operate a public livestock market pursuant to RCW 16.65.030.

(i) The provisions of WAC 197-10-170(5)(i) shall apply to allow possible exemption of renewals of the above licenses.

(9) Department of ecology. The following activities of the department of ecology shall be exempt:

(a) The issuance of any waste discharge permit which incorporates without change effluent limitations established by federal regulations adopted under the Federal Water Pollution Control Act [33 USC § 1251, et. seq.], except for permits authorizing new source discharges.

(b) Review of comprehensive solid waste management plans pursuant to RCW 70.95.100 and .110.



(10) Department of highways. The following activities of the department of highways shall be exempt:

(a) Approval of the Annual Highway Safety Work Program involving the highway-related safety standards pursuant to 23 USC § 402.

(b) Issuance of road approach permits and right-of-way rental agreements.

(11) Utilities and transportation. All actions of the utilities and transportation commission under programs administered as of December 12, 1975 are hereby exempted, except the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

(a) Issuance of common carrier motor freight authority under the provisions of chapter 81.80, RCW, which would authorize a new service, or extend an existing transportation service in the fields of general freight (other than local cartage), petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives or corrosives;

(b) Authorization of the opening or closing of any highway-railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;

(c) Regulation of oil and gas pipelines pursuant to chapter 81.88, RCW; and,

(d) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under the provisions of WAC 197-10-170, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

(12) Other agencies. Except for building construction (the majority of which is undertaken through the department of general administration), all activities of the following state agencies under programs they administer as of December 12, 1975 are hereby exempted:

(a) Office of the attorney general.

(b) Office of the auditor.

(c) Department of employment security.

(d) Office of the insurance commissioner and state fire marshal.

(e) Department of personnel.

(f) Department of printing.

(g) Department of revenue.

(h) Office of the secretary of state.

(i) Office of the treasurer.

(j) Arts commission.

(k) Washington state patrol.

(l) Interagency committee for outdoor recreation.

WAC 197-10-177 ENVIRONMENTALLY SENSITIVE AREAS. (1) Each county/city may at its option designate areas within its jurisdiction which are environmentally sensitive areas. Environmentally sensitive areas shall be those within which the exemptions listed in subsection (2) hereof could have a significant adverse environmental impact, including, but not limited to, areas with unstable soils, steep slopes, unusual or unique flora or fauna, or areas which lie within flood plains. The location

and extent of all environmentally sensitive areas shall be clearly indicated on a map which shall be adopted by reference as part of the SEPA guidelines of the county/city.

(2) Each county/city which adopts and maps environmentally sensitive areas may select certain categorical exemptions which do not apply within various environmentally sensitive areas. The selection of exemptions that will not apply may be made from the following list: WAC 197-10-170(1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d) and (i); and, (19)(d), (f) and (h). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency to not apply within the various environmentally sensitive areas shall be listed within the SEPA guidelines of any county/city adopting such areas.

(3) Major actions which will be located within environmentally sensitive areas are to be treated no differently than other major actions under this chapter. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

(4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

#### WAC 197-10-180 EXEMPTION FOR EMERGENCY ACTIONS.

Actions which 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 from the procedural requirements of this chapter. Agencies may in their guidelines specify emergency actions which satisfy the general requirements of this section.

WAC 197-10-190 USE AND EFFECT OF CATEGORICAL EXEMPTIONS. (1) Those activities excluded from the definition of "action" in WAC 197-10-040(2), or categorically exempted by WAC 197-10-170, -175 and -180, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of these guidelines and RCW 43.21C.030(2)(c) and (2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

(3) For proposals in (2) above, exempt activities or actions may be undertaken prior to the threshold determination, subject to the timing considerations in WAC 197-10-055. For each such proposal a lead agency shall be determined, and a threshold determination shall be made prior to any major action with respect to the proposal, and prior to any decision by the lead agency irreversibly committing itself to adopt or approve the proposal.

(4) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.

#### LEAD AGENCY

WAC 197-10-200 LEAD AGENCY--RESPONSIBILITIES. The lead agency shall be the only agency responsible for complying with the threshold determination procedures of WAC 197-10-300 through -390; and the lead agency shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 197-10-400 through -495, including the circulation of such statements, and the conduct of any public hearings required by this chapter. The lead agency shall also prepare or supervise preparation of any required final EIS pursuant to WAC 197-10-550 through -695.

#### WAC 197-10-203 DETERMINATION OF LEAD AGENCY--PROCEDURES.

(1) The first agency receiving or initiating a proposal for a major action, or for any part of a proposal when the total proposal involves a major action, shall determine the lead agency for that proposal. To ensure that the lead agency is determined early, agencies shall determine the lead agency for all proposals for a major action they receive, unless the lead agency has been previously determined or the agency receiving the proposal is aware that another agency is in the process of determining the lead agency. The lead agency shall be determined by using the criteria in WAC 197-10-205 through -245.

(2) If the acting 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 explanation thereof. If the agency receiving this determination agrees that it is the lead agency, it shall so notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 197-10-260.

(3) If the acting agency determines that it is the lead agency, it shall immediately mail a copy of its determination and explanation thereof to all other agencies with jurisdiction over the proposal. The acting agency shall then proceed, as the lead agency, to the threshold determination procedure of WAC 197-10-300 through -390. If another agency with jurisdiction objects to the lead agency determination, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 197-10-260.

(4) Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition to CEP for a lead agency determination within fifteen days of receiving the determination.

(5) To make the lead agency determination, an acting agency must determine to the best of its ability the other agencies with jurisdiction over the proposal. This can be done by requesting the information from a private applicant,

or through consultation with the information centers established pursuant to RCW 90.62.120, within the Environmental Coordination Procedures Act of 1973 (ECPA).

**WAC 197-10-205 LEAD AGENCY DESIGNATION--GOVERNMENTAL PROPOSALS.** The lead agency for all proposals initiated by an agency shall be the agency making the proposal. In the event that two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will assume the status of lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

**WAC 197-10-210 LEAD AGENCY DESIGNATION--PROPOSALS INVOLVING BOTH PRIVATE AND PUBLIC CONSTRUCTION ACTIVITY.** When the total proposal will involve both private and public construction activity, 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 pursuant to WAC 197-10-205.

**WAC 197-10-215 LEAD AGENCY DESIGNATION--PRIVATE PROJECTS FOR WHICH THERE IS ONLY 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 197-10-220 LEAD AGENCY DESIGNATION--PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE AGENCY, WHEN ONE OF THE AGENCIES IS A COUNTY/CITY.** For proposals for private projects which require licenses from more than one agency when at least one of the agencies requiring a license is a county/city, the lead agency shall be the 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 197-10-225 LEAD AGENCY DESIGNATION--PRIVATE PROJECTS REQUIRING LICENSES FROM MORE THAN ONE STATE AGENCY.**

(1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Utilities and transportation commission.
- (g) Department of motor vehicles.
- (h) Department of labor and industries.

(2) For private projects requiring a license from more than one state agency, but requiring no license from a county/city, and when none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency which has the largest biennial appropriation.

(3) When, due to the provision of subsection (1) of this section, an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program.

WAC 197-10-230 LEAD AGENCY DESIGNATION--SPECIFIC PROPOSALS. Notwithstanding the lead agency designation criteria contained in WAC 197-10-205 through -225, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to thermal power plants for which certification is required under Chapter 80.50, RCW, the lead agency shall be the thermal power plant site evaluation council: PROVIDED, That for any public project requiring such certification and for which the study authorized by 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 utilization of geothermal resources subject to 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 pursuant to Chapter 78.52, RCW, the lead agency shall be the department of natural resources, except that for projects subject to 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 76.04, RCW, the lead agency shall be the department of natural resources: PROVIDED, That for any proposal which 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: PROVIDED, That 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 by the department of ecology; except that when county/city licenses are applied for prior to filing the ECPA application, a lead agency shall be determined pursuant to the standards of these guidelines prior to granting such county/city licenses.

(7) For private projects which require the issuance of a National Pollutant Discharge Elimination System (NPDES) permit under § 402 of the Federal Water Pollution Control Act (33 USC § 1251, et. seq.), for a pulp or paper mill or oil refinery, the lead agency shall be the department of ecology.

(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, 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, 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, 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.

**WAC 197-10-235 LOCAL AGENCY TRANSFER OF LEAD AGENCY STATUS TO A STATE AGENCY.** For any proposal for a private project where a city or town with a population of under five thousand or a county of fifth through ninth class would be the lead agency pursuant to the designation criteria of WAC 197-10-210 through -230, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in WAC 197-10-225. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal.

**WAC 197-10-240 AGREEMENTS AS TO LEAD AGENCY STATUS.** Nothing herein shall prohibit an agency from assuming the role of lead agency as a result of an agreement among all agencies with jurisdiction.

**WAC 197-10-245 AGREEMENTS BETWEEN AGENCIES AS TO 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 guidelines. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency.

WAC 197-10-260 DISPUTE AS TO LEAD AGENCY DETERMINATION  
--RESOLUTION BY CEP. (1) In the event that the agencies with jurisdiction are unable to determine which agency is the lead agency under these guidelines, any agency with jurisdiction may petition CEP for such determination. Such petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. Any such petition shall be filed with CEP 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 private applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with CEP 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, CEP shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. CEP shall make its determination in accordance with these guidelines; or in the event the guidelines do not control, the lead agency shall be the agency whose action, license, or licenses will have the greatest effect on the environment.

WAC 197-10-270 ASSUMPTION OF LEAD AGENCY STATUS BY ANOTHER AGENCY WITH JURISDICTION. When there has been an assumption of lead agency status by another agency with jurisdiction over a proposal, pursuant to WAC 197-10-345, the lead agency responsibilities regarding threshold determination procedures (WAC 197-10-300 through -390) transfer to the new lead agency.

### THRESHOLD DETERMINATION

#### WAC 197-10-300 THRESHOLD DETERMINATION REQUIREMENT.

(1) Except as provided in subsection (2) hereof, a threshold determination shall be made for every proposal for a major action. The responsible official designated by the lead agency shall be responsible for making the threshold determination. Only the lead agency shall make a threshold determination, except when lead agency duties are shared or assumed pursuant to WAC 197-10-245 and -345, respectively.

(2) The threshold determination requirement of completion of an environmental checklist may be omitted, unless pre-draft consultation occurs, when:

(a) Both the responsible official and the sponsor (public or private) of a proposal agree that an EIS is required, or

(b) The sponsor of the proposal and the lead agency are the same entity and decides that an EIS is required.

(3) When the provisions of subsection (2) above have been utilized, compliance with requirements for use of the environmental checklist contained in WAC 197-10-305 through -390 may be disregarded.

WAC 197-10-305 RECOMMENDED TIMING FOR THRESHOLD DETERMINATION. In most cases the time required to complete a threshold determination should not exceed fifteen days. The initial review of a completed environmental checklist can usually be completed in a matter of hours. If further information is required to make the threshold determination, the time required will vary, depending upon the nature of the proposal and the information required. When a threshold determination is expected to require more than fifteen days to complete and a private applicant requests notification of the date when a threshold determination will be made, the lead agency shall transmit to the private applicant a written statement as to the expected date of decision.

WAC 197-10-310 THRESHOLD DETERMINATION PROCEDURES-- ENVIRONMENTAL CHECKLIST. (1) An environmental checklist substantially in the form provided in WAC 197-10-365 shall be completed for any proposed major action before making the threshold determination. The proposal's proponent shall complete the checklist either alone or together with the lead agency. Explanations of every "yes" and "maybe" answer on the checklist shall be provided, and persons completing the checklist may provide explanations of "no" answers. Persons filling out an environmental checklist may make reference to studies or reports which are available to the agency to which the checklist is being submitted.

(2) An environmental checklist may be required by an acting agency receiving an application for a major action, or (if one has not been previously completed) shall be required by the lead agency prior to making the threshold determination.

(3) No environmental checklist or threshold determination is required for proposals that are exempted by WAC 197-10-170, -175 and -180.

WAC 197-10-320 THRESHOLD DETERMINATION PROCEDURES-- INITIAL REVIEW OF ENVIRONMENTAL CHECKLIST. (1) The lead agency shall conduct an initial review of the environmental checklist for the proposal together with any supporting documentation. This initial review shall be made without requiring further information from the applicant. In making this initial review, the lead agency shall independently evaluate each item on the checklist and indicate thereon the results of this evaluation.

(2) After completing the initial review of the environmental checklist, the lead agency shall apply the criteria of WAC 197-10-060 and -360 to the checklist as evaluated by the lead agency. This process will lead to one of three determinations:

(a) The proposal will not have a significant adverse impact upon the quality of the environment; in which case, the lead agency shall initiate the negative threshold determination procedures of WAC 197-10-340; or,

(b) The proposal will have a significant adverse impact upon the quality of the environment; in which case the lead agency shall initiate the EIS preparation procedures of WAC 197-10-350 and -400 through -695; or,

(c) There is not sufficient information available to the lead agency to enable it to reasonably make a determination of



the environmental significance of the proposal; in which case the lead agency shall implement one or more of the information gathering mechanisms in WAC 197-10-330.

**WAC 197-10-330 THRESHOLD DETERMINATION PROCEDURES-- INFORMATION IN ADDITION TO CHECKLIST.** (1) The threshold determination by the lead agency must be based upon information reasonably sufficient to determine the environmental impact of a proposal. In the event that the lead agency determines the information available to it is not reasonably sufficient to make this determination, one or more of the following may be initiated:

(a) The applicant may be required to furnish further information. This additional information shall be limited to those categories on the environmental checklist. An applicant may be required to provide explanations of any "no" answers to questions on the checklist.

(b) The lead agency may initiate further studies, including physical investigations on the subject property, directed toward providing additional information on the environmental impacts of the proposal.

(c) The lead agency may consult with other agencies with jurisdiction over the proposal, requesting substantive information as to potential environmental impacts of the proposal which lie within the area of expertise of the particular agency so consulted. Agencies so consulted shall respond in accordance with the requirements of WAC 197-10-500 through -540.

(2) When, during the course of collecting further information on a proposal, the lead agency obtains information reasonably sufficient to assess the adverse environmental impacts of the proposal, it shall immediately make the threshold determination utilizing the criteria of WAC 197-10-360 and -365. In the event that the further investigations authorized by this section do not provide information reasonably sufficient to assess any potential adverse environmental impacts of the proposal, an EIS shall be prepared.

**WAC 197-10-340 THRESHOLD DETERMINATION PROCEDURES-- NEGATIVE DECLARATIONS.** (1) In the event the lead agency determines a proposal will not have a significant adverse impact on the quality of the environment, it shall prepare a proposed or final declaration of non-significance, as appropriate, substantially in the form provided in WAC 197-10-355.

(2) The lead agency shall prepare a final declaration of non-significance for all proposals except for those listed in subsection (3) below.

(3) A lead agency making a threshold determination of non-significance for any of the following proposals shall prepare a proposed declaration of non-significance, and comply with the requirements of subsection (4) through (6) below prior to taking any further action on the proposal:

(a) Proposals for which there is another agency with jurisdiction.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 197-10-170(1)(n) or -180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 197-10-170, -175 or -180.

(4) The lead agency shall list all proposed declarations of non-significance in the "Proposed Declaration of Non-Significance Register" at its SEPA public information center. All such declarations shall be attached to the environmental checklist as evaluated by the lead agency and transmitted to any other agencies with jurisdiction and to the SEPA public information center of the lead agency.

(5) Any person or agency may submit written comments on the proposed declaration of non-significance to the lead agency within fifteen days from the date of its listing in the register. The lead agency shall take no further action on the proposal which is the subject of the proposed declaration of non-significance for fifteen days from the date of its listing in the register. If comments are received, the lead agency shall reconsider its proposed declaration in light thereof; however, the lead agency is not required to modify its proposed declaration of non-significance to reflect the comments received thereon.

(6) After the fifteen day time period has elapsed, and after considering any comments, the lead agency shall either adopt its proposed declaration as a "Final Declaration of Non-Significance," or determine that the proposal is significant, or utilize the additional information gathering mechanisms of WAC 197-10-330(1).

(7) Issuance of proposed and final declarations of non-significance completes the procedural requirements of these guidelines unless another agency with jurisdiction assumes lead agency duties and responsibilities pursuant to WAC 197-10-345.

**WAC 197-10-345 ASSUMPTION OF LEAD AGENCY STATUS BY ANOTHER AGENCY WITH JURISDICTION OVER A PROPOSAL--PRE-REQUISITES, EFFECT AND FORM OF NOTICE.** (1) Notwithstanding the lead agency determination criteria of WAC 197-10-200 through -260, an agency with jurisdiction over a proposal, upon review of a proposed declaration of non-significance, may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." Such form of notice shall be substantially similar to that described in subsection (4) below. Assumption of lead agency status, if it is to occur, shall take place within fifteen days of the listing of the proposal in the "Proposed Declaration of Non-Significance Register" as provided for in WAC 197-10-340.

(2) An agency with jurisdiction over a proposal, prior to transmittal of the notice described in subsection (4) below and an attached declaration of significance, shall make a finding that an EIS is required for the proposal. This finding shall be based only upon information contained in the environmental checklist attached to the proposed declaration of non-significance transmitted by the lead agency and any other information possessed by the agency with jurisdiction relative to the matters contained in the environmental checklist.

(3) As a result of the transmittal of a completed form of the notice contained in subsection (4) below and attached declaration of significance, the consulted agency with jurisdiction shall become the "new" lead agency and shall begin preparation of a draft EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

(4) The form of "Notice of Assumption of Lead Agency Status" is as follows:

FORM OF NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of Proposal \_\_\_\_\_

Proponent \_\_\_\_\_

Location of Proposal \_\_\_\_\_

Initial Lead Agency \_\_\_\_\_

New Lead Agency \_\_\_\_\_

This proposal was determined by the initial lead agency to have no significant adverse impact upon the environment, according to the proposed declaration of non-significance dated \_\_\_\_\_. A review of the information relative to the environmental checklist has been made by the new lead agency and in its opinion an EIS is required for the proposal. Consequently, notice is hereby given that the former consulted agency with jurisdiction assumes the responsibility of lead agency status from the initial lead agency, including, but not limited to, the duty to prepare a draft and final EIS on the proposal.

Responsible Official \_\_\_\_\_

Position/Title \_\_\_\_\_

Address/Phone \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_

(5) A completed form of notice, together with a declaration of significance, shall be transmitted to the initial lead agency, any other agencies with jurisdiction and the proponent of the proposal. A copy of the notice shall be retained in the new lead agency's SEPA public information center.

(6) Agencies with jurisdiction may still comment critically upon a proposed declaration of non-significance without assuming lead agency status. No agency shall be deemed to have assumed lead agency status pursuant to this section unless a notice substantially in the form of subsection (4) hereof is completed and transmitted by that agency. The decision of any agency with jurisdiction to not assume lead agency status pursuant to this section shall create no new legal obligation upon that agency.

**WAC 197-10-350 AFFIRMATIVE THRESHOLD DETERMINATION.** (1) In the event the lead agency determines that the proposal will have a significant adverse effect upon the quality of the environment, it shall prepare a declaration of significance using the form in WAC 197-10-355 which shall be retained in the files of the lead agency. The lead agency shall then list the proposal in the "EIS in Preparation Register" maintained at the SEPA public information center of the lead agency, and then begin the EIS preparation procedures of WAC 197-10-400 through -695.

(2) After the additional information gathering mechanisms of WAC 197-10-330 have been utilized, and when there

exists a reasonable belief by the lead agency that the proposal could have a significant adverse impact, the procedure contained in subsection (1) above shall also be followed.

WAC 197-10-355 FORM OF DECLARATION OF SIGNIFICANCE/NON-SIGNIFICANCE. (1) A declaration substantially in the form set forth in subsection (2) of this section shall be used for all declarations of significance and proposed and final declarations of non-significance. This form shall be attached to the environmental checklist together with any other information obtained pursuant to WAC 197-10-330, and maintained in the files of the lead agency. The form without the attachments shall also be retained in the SEPA public information center of the lead agency for one year after issuance.

(2) The form is as follows:

FORM FOR [PROPOSED/FINAL] DECLARATION  
OF [SIGNIFICANCE/NON-SIGNIFICANCE]

Description of proposal \_\_\_\_\_

Proponent \_\_\_\_\_

Location of Proposal \_\_\_\_\_

Lead Agency \_\_\_\_\_

This proposal has been determined to [have/not have] a significant adverse impact upon the environment. An EIS [is/is not] required under RCW 43.21C.030(2)(c). This decision was made after review by the lead agency of a completed environmental checklist and other information on file with the lead agency.

Responsible Official \_\_\_\_\_

Position/Title \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_

(3) If the form is for a declaration of environmental significance, the lead agency may add to the information contained in subsection (2) of this section a listing of those environmental impacts which led to the declaration, together with a brief explanation of what measures, if any, could be taken to prevent or mitigate the environmental impacts of the proposal to such an extent that the lead agency would withdraw its declaration and issue a [proposed/final] declaration of non-significance.

WAC 197-10-360 THRESHOLD DETERMINATION CRITERIA--APPLICATION OF ENVIRONMENTAL CHECKLIST. (1) The lead agency shall apply the questions in the environmental checklist to the total proposal, including its indirect effects [See WAC 197-10-060], to determine whether the proposal will result in a significant adverse impact upon the quality of the environment. The threshold decision shall be based solely upon this process. The questions contained in the environmental checklist are exclusive, and factors not listed therein shall not be considered in the threshold determination.

(2) The questions in the environmental checklist are not weighted. It is probable there will be affirmative answers to several of these questions while the proposal would still not

necessarily have a significant adverse impact; however, a single affirmative answer could indicate a significant adverse impact, depending upon the nature of the impact and location of the proposal. The nature of the existing environment is an important factor. The same project may have a significant adverse impact in one location, but not in another location. The absolute quantitative effects of the proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment. The lead agency shall also be alert to the possibility that several marginal impacts when taken together will result in a significant adverse environmental impact. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted. If, after the lead agency has utilized the additional information gathering mechanisms of WAC 197-10-330, the impacts of the proposal are still in doubt, and there exists a reasonable belief by the lead agency that the proposal could have a significant adverse impact, an EIS is required.

(3) It should also be remembered that proposals designed to improve the environment (such as sewage treatment plants or pollution control requirements) may also have adverse environmental impacts. The question at the threshold determination level is not whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather if the proposal involves any significant adverse impacts upon the quality of the environment. If it does, an EIS is required. No test of balance shall be applied at the threshold determination level.

(4) Additional research or field investigations by either the lead agency or by the private applicant is required when the information available to the lead agency is not sufficient for it to make a determination of the potential adverse environmental impacts [See WAC 197-10-330]. It is expected, however, that many proposals can be evaluated entirely through an office review [See WAC 197-10-320] of the environmental checklist, and that for other proposals, the majority of the questions in the environmental checklist may be answered in the same manner.

WAC 197-10-365 ENVIRONMENTAL CHECKLIST. (1) The form in subsection (2) hereof is the environmental checklist. Agencies may at their option revise the format of this form; however, the language of the questions shall not be changed. The questions appearing in the environmental checklist are exclusive, and considerations which do not appear in it or in WAC 197-10-360 shall not be used in making a threshold determination. This checklist does not supersede or void application forms required under any other federal or state statute or local ordinance, but rather is supplementary thereto.

(2) Environmental checklist form:

Introduction: The State Environmental Policy Act of 1971, Chapter 43.21C, RCW, requires all state and local governmental agencies to consider environmental values both for their own actions and when licensing private proposals. The Act also requires that an EIS be prepared for all major actions significantly affecting the quality of the environment. The purpose of this checklist is to help the agencies involved determine whether or not a proposal is such a major action.

Please answer the following questions as completely as you can with the information presently available to you. Where explanations of your answers are required, or where you believe an

explanation would be helpful to government decision makers, include your explanation in the space provided, or use additional pages if necessary. You should include references to any reports or studies of which you are aware and which are relevant to the answers you provide. Complete answers to these questions now will help all agencies involved with your proposal to undertake the required environmental review without unnecessary delay.

The following questions apply to your total proposal, not just to the license for which you are currently applying or the proposal for which approval is sought. Your answers should include the impacts which will be caused by your proposal when it is completed, even though completion may not occur until sometime in the future. This will allow all of the agencies which will be involved to complete their environmental review now, without duplicating paperwork in the future.

NOTE: This is a standard form being used by all state and local agencies in the State of Washington for various types of proposals. Many of the questions may not apply to your proposal. If a question does not apply, just answer it "no" and continue on to the next question.

### ENVIRONMENTAL CHECKLIST FORM

#### I. BACKGROUND

1. Name of Proponent \_\_\_\_\_
2. Address and Phone Number of Proponent: \_\_\_\_\_  
\_\_\_\_\_
3. Date Checklist Submitted \_\_\_\_\_
4. Agency Requiring Checklist \_\_\_\_\_
5. Name of Proposal, if applicable: \_\_\_\_\_
6. Nature and Brief Description of the Proposal (including but not limited to its size, general design elements, and other factors that will give an accurate understanding of its scope and nature): \_\_\_\_\_  
\_\_\_\_\_
7. Location of Proposal (describe the physical setting of the proposal, as well as the extent of the land area affected by any environmental impacts, including any other information needed to give an accurate understanding of the environmental setting of the proposal): \_\_\_\_\_  
\_\_\_\_\_
8. Estimated Date for Completion of the Proposal: \_\_\_\_\_
9. List of all Permits, Licenses or Government Approvals Required for the Proposal (federal, state and local--including rezones): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain:
- 
11. Do you know of any plans by others which may affect the property covered by your proposal? If yes, explain:
- 
12. Attach any other application form that has been completed regarding the proposal; if none has been completed, but is expected to be filed at some future date, describe the nature of such application form:
- 

II. ENVIRONMENTAL IMPACTS

(Explanations of all "yes" and "maybe" answers are required)

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
(1) <u>Earth</u> . Will the proposal result in:			
(a) Unstable earth conditions or in changes in geologic substructures?	---	---	---
(b) Disruptions, displacements, compaction or overcovering of the soil?	---	---	---
(c) Change in topography or ground surface relief features?	---	---	---
(d) The destruction, covering or modification of any unique geologic or physical features?	---	---	---
(e) Any increase in wind or water erosion of soils, either on or off the site?	---	---	---
(f) Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	---	---	---

Explanation: \_\_\_\_\_

---

(2) Air. Will the proposal result in:

- |  |     |     |     |
|--|-----|-----|-----|
| (a) Air emissions or deterioration of ambient air quality?   | --- | --- | --- |
| (b) The creation of objectionable odors?   | --- | --- | --- |
| (c) Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally? | --- | --- | --- |

Explanation: \_\_\_\_\_

---

Yes    Maybe    No

(3) Water. Will the proposal result in:

(a) Changes in currents, or the course or direction of water movements, in either marine or fresh waters?

\_\_\_\_\_

(b) Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?

\_\_\_\_\_

(c) Alterations to the course or flow of flood waters?

\_\_\_\_\_

(d) Change in the amount of surface water in any water body?

\_\_\_\_\_

(e) Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?

\_\_\_\_\_

(f) Alteration of the direction or rate of flow of ground waters?

\_\_\_\_\_

(g) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

\_\_\_\_\_

(h) Deterioration in ground water quality, either through direct injection, or through the seepage of leachate, phosphates, detergents, waterborne virus or bacteria, or other substances into the ground waters?

\_\_\_\_\_

(i) Reduction in the amount of water otherwise available for public water supplies?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(4) Flora. Will the proposal result in:

(a) Change in the diversity of species, or numbers of any species of flora (including trees, shrubs, grass, crops, microflora and aquatic plants)?

\_\_\_\_\_

(b) Reduction of the numbers of any unique, rare or endangered species of flora?

\_\_\_\_\_



(c) Introduction of new species of flora into an area, or in a barrier to the normal replenishment of existing species?

\_\_\_\_\_

(d) Reduction in acreage of any agricultural crop?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(5) Fauna. Will the proposal result in:

(a) Changes in the diversity of species, or numbers of any species of fauna (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?

\_\_\_\_\_

(b) Reduction of the numbers of any unique, rare or endangered species of fauna?

\_\_\_\_\_

(c) Introduction of new species of fauna into an area, or result in a barrier to the migration or movement of fauna?

\_\_\_\_\_

(d) Deterioration to existing fish or wildlife habitat?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(6) Noise. Will the proposal increase existing noise levels?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(7) Light and Glare. Will the proposal produce new light or glare?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(8) Land Use. Will the proposal result in the alteration of the present or planned land use of an area?

\_\_\_\_\_

Explanation: \_\_\_\_\_

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
(9) <u>Natural Resources.</u> Will the proposal result in:			
(a) Increase in the rate of use of any natural resources?	---	---	---
(b) Depletion of any nonrenewable natural resource?	---	---	---
Explanation: _____			
(10) <u>Risk of Upset.</u> Does the proposal involve a risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	---	---	---
Explanation: _____			
(11) <u>Population.</u> Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	---	---	---
Explanation: _____			
(12) <u>Housing.</u> Will the proposal affect existing housing, or create a demand for additional housing?	---	---	---
Explanation: _____			
(13) <u>Transportation/Circulation.</u> Will the proposal result in:			
(a) Generation of additional vehicular movement?	---	---	---
(b) Effects on existing parking facilities, or demand for new parking?	---	---	---
(c) Impact upon existing transportation systems?	---	---	---
(d) Alterations to present patterns of circulation or movement of people and/or goods?	---	---	---
(e) Alterations to waterborne, rail or air traffic?	---	---	---

(f) Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(14) Public Services. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:

(a) Fire protection?

\_\_\_\_\_

(b) Police protection?

\_\_\_\_\_

(c) Schools?

\_\_\_\_\_

(d) Parks or other recreational facilities?

\_\_\_\_\_

(e) Maintenance of public facilities, including roads?

\_\_\_\_\_

(f) Other governmental services?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(15) Energy. Will the proposal result in:

(a) Use of substantial amounts of fuel or energy?

\_\_\_\_\_

(b) Demand upon existing sources of energy, or require the development of new sources of energy?

\_\_\_\_\_

Explanation: \_\_\_\_\_

(16) Utilities. Will the proposal result in a need for new systems, or alterations to the following utilities:

(a) Power or natural gas?

\_\_\_\_\_

(b) Communications systems?

\_\_\_\_\_

(c) Water?

\_\_\_\_\_

(d) Sewer or septic tanks?

\_\_\_\_\_

(e) Storm water drainage?

\_\_\_\_\_

(f) Solid waste and disposal?

\_\_\_\_\_

Explanation: \_\_\_\_\_

- |   | Yes   | Maybe | No    |
|---|-------|-------|-------|
| (17) <u>Human Health.</u> Will the proposal result in the creation of any health hazard or potential health hazard (excluding mental health)?   | _____ | _____ | _____ |
| Explanation: _____<br>_____   |       |       |       |
| (18) <u>Aesthetics.</u> Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view? | _____ | _____ | _____ |
| Explanation: _____<br>_____   |       |       |       |
| (19) <u>Recreation.</u> Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?  | _____ | _____ | _____ |
| Explanation: _____<br>_____   |       |       |       |
| (20) <u>Archeological/Historical.</u> Will the proposal result in an alteration of a significant archeological or historical site, structure, object or building?   | _____ | _____ | _____ |
| Explanation: _____<br>_____   |       |       |       |

III. SIGNATURE

I, the undersigned, state that to the best of my knowledge the above information is true and complete. It is understood that the lead agency may withdraw any declaration of non-significance that it might issue in reliance upon this checklist should there be any willful misrepresentation or willful lack of full disclosure on my part.

Proponent: \_\_\_\_\_

WAC 197-10-370 WITHDRAWAL OF AFFIRMATIVE THRESHOLD DETERMINATION. If at any time after the entry of a declaration of significance, the proponent modifies the proposal so that, in the judgment of the lead agency, all significant adverse environmental impacts resulting therefrom are eliminated, the declaration of significance shall be withdrawn and a declaration of non-significance entered instead. The lead agency shall also revise the registers at its SEPA public information center accordingly. If the proponent of a proposal is a private applicant, the proposal shall not be considered modified until all license applications for the proposal are revised to reflect the modification.

**WAC 197-10-375 WITHDRAWAL OF NEGATIVE THRESHOLD DETERMINATION.** (1) Except after a non-exempt license has been issued for a private project, the lead agency may withdraw any proposed or final declaration of non-significance when new information becomes available to it indicating that the proposal may have significant adverse environmental impacts.

(2) The lead agency may withdraw any proposed or final declaration of non-significance at any time when:

(a) The proposal has been modified after the threshold determination, and such modification may cause the proposed action to have significant adverse environmental impacts, or

(b) The negative threshold determination was procured by misrepresentation or lack of full disclosure by the proponent of the proposal.

(3) Whenever a negative threshold determination is withdrawn pursuant to this section, the lead agency shall immediately re-evaluate the proposal and make a revised threshold determination pursuant to WAC 197-10-300 through -360.

(4) Whenever a final declaration of non-significance has been withdrawn for one of the reasons in subsection (2) hereof, and the lead agency upon re-evaluation determines that the proposal will have significant adverse environmental impacts, agencies with jurisdiction shall initiate procedures to suspend, modify or revoke, as appropriate, any non-exempt licenses issued for the proposal until compliance with the procedures of these guidelines is met.

**WAC 197-10-380 INTRA-AGENCY APPEALS OF THRESHOLD DETERMINATIONS.** Agencies may at their option provide in their guidelines for internal review or appeals of threshold determinations, including appeals initiated by members of the public. The time required to complete any such review or appeal mechanisms may be considered an addition to that recommended by WAC 197-10-305.

**WAC 197-10-390 EFFECT OF THRESHOLD DETERMINATION BY LEAD AGENCY.** (1) Except as provided in subsection (2) below, a threshold determination by the lead agency is binding upon all agencies, and no agency shall repeat the threshold determination procedures for substantially the same proposal. This section shall not be construed to permit or prohibit judicial review of a threshold determination by a court, or quasi-judicial review of a threshold determination by an agency during an administrative hearing.

(2) An agency with jurisdiction over a proposal, upon receipt of a proposed declaration of non-significance from the lead agency, may complete and transmit a notice of assumption of lead agency status after meeting the requirements of WAC 197-10-345. As a result of compliance with WAC 197-10-345, the agency with jurisdiction has in effect reversed the decision of the initial lead agency regarding environmental insignificance and as the new lead agency, will be required to prepare a draft EIS and exercise the other responsibilities of a lead agency under these guidelines.

## DRAFT EIS PREPARATION AND CONTENTS

WAC 197-10-400 DUTY TO BEGIN PREPARATION OF A DRAFT EIS.  
After compliance with WAC 197-10-350, relating to preparation of a declaration of significance and the listing of the proposal in the "EIS in Preparation Register," the lead agency shall prepare the draft and final EIS in compliance with WAC 197-10-410 through -695.

### WAC 197-10-405 PURPOSE AND FUNCTION OF A DRAFT EIS.

(1) The principal purpose of the draft EIS document is to transmit information concerning a proposed governmental action and the alternatives to that action to public officials, project sponsors, and interested citizens. While the contents of a draft EIS may span a wide spectrum of issues, the focus of the document is upon the following:

(a) The assessment of the adverse impacts upon the environment which may result from the proposed action or its alternatives, and

(b) An analysis of measures which may be taken to mitigate or eliminate those adverse impacts.

(2) Another principal function to be served by the draft EIS process is to facilitate the transmittal to the lead agency from other governmental agencies and interested citizens substantive information concerning the adverse impacts upon the environment discussed inadequately or erroneously in the draft EIS. The draft EIS process also provides an opportunity for reviewers of the document to bring to the attention of the lead agency any issue of potential environmental concern which should be explored by the lead agency prior to the issuance of a final EIS.

### WAC 197-10-410 PRE-DRAFT CONSULTATION PROCEDURES.

(1) Pre-draft consultation is consultation by the lead agency with another agency with jurisdiction or expertise prior to completion of the draft EIS. Pre-draft consultation with another agency on proposals for private projects shall only be initiated by the lead agency when requested by a private applicant participating in the preparation of the draft EIS. Pre-draft consultation with another agency on public proposals may be initiated at the option of the lead agency.

(2) Pre-draft consultation is commenced when the lead agency sends to the consulted agency a packet of the following material related to the proposal:

(a) Any application for licenses for the proposal in the possession of the lead agency.

(b) A copy of the environmental checklist required by WAC 197-10-310, as reviewed pursuant to WAC 197-10-320.

(c) Any information in addition to the checklist resulting from application of WAC 197-10-330.

(d) Any other information deemed relevant to the proposal by the lead agency such as:

(i) Prior EISs;

(ii) Portions of applicable plans or ordinances; or,

(iii) Prior scientific studies applicable to the site.

(3) Agencies so consulted will have forty-five days from receipt of the packet to respond in writing to the lead agency. The required contents of the consulted agency response are governed by WAC 197-10-500 through -540.

(4) The lead agency shall incorporate the relevant information received from other agencies during the pre-draft consultation stage into the draft EIS, by either summarizing the

major findings which are contained in each of the consulted agency's responses or utilizing all of the data received. In the event the lead agency disagrees with any conclusion expressed in the information received from the consulted agency, the conclusion shall be set forth together with the position of the lead agency. The information required by this subsection may be placed wherever in the draft EIS the lead agency deems most appropriate. There is no requirement that either the draft or final EIS include responses to pre-draft consultation in a separate "response" section.

**WAC 197-10-420 PREPARATION OF EIS BY PERSONS OUTSIDE THE LEAD AGENCY.** (1) Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or agent thereof, or by an outside consultant retained by either a private applicant or the lead agency. In such case, the responsible official within the lead agency shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any pre-draft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which are relevant to the subject matter of the EIS, pursuant to RCW 42.17 [Public Disclosure and Public Records Law; Initiative 276, 1973].

(4) Every agency shall specifically provide in its own guidelines those situations in which a private applicant may be required or authorized to participate in the preparation of an EIS. Such agency guidelines may not require more information of a private applicant than allowed by this chapter, but may authorize a lesser degree of participation by a private applicant than allowed herein: PROVIDED, That nothing herein shall be construed to prohibit an agency from charging any fee of an applicant which the agency is otherwise authorized to charge [See WAC 197-10-860].

(5) No private applicant shall be required to participate in the preparation of an EIS except when consistent with the guidelines of the lead agency. A private applicant may, however, volunteer to provide any information or effort desired, so long as the contents and organization of the resulting EIS are supervised and approved by the responsible official as required by this section.

(6) The provisions of this section apply to both the draft and final EIS.

WAC 197-10-425 ORGANIZATION AND STYLE OF A DRAFT EIS.

(1) The required contents of a draft EIS for proposals of both a project and non-project nature are set forth in WAC 197-10-440. The contents of a draft EIS prepared pursuant to that section shall be organized as set forth in subsections (2) and (3) of this section.

(2) Each draft EIS shall begin with an introduction, table of contents, distribution list, summary, and a description of the proposed action. The information contained in each section shall conform to the applicable requirements set forth in WAC 197-10-440(1) through -440(6). Organization variation is not permitted for these portions of the draft EIS.

(3) The organization and style of the remaining content of the EIS may be varied, at the option of the lead agency, from the format set forth in WAC 197-10-440(7) through (14): PROVIDED, That all of the subject matters required by WAC 197-10-440 shall be contained somewhere within the draft EIS.

(4) The lead agency that prepares a draft EIS should keep in mind that the purpose of a draft EIS is to aid decision-makers in considering the significant environmental impacts of their decisions. This purpose is not served by EISs which are excessively detailed and overly technical. Clarity and conciseness of presentation are of crucial importance in ensuring that EISs prepared under these guidelines are considered and actually utilized in decision-making processes.

WAC 197-10-440 CONTENTS OF A DRAFT EIS. (1) The following subsections set forth the required contents of a draft EIS: PROVIDED, That where an agency is preparing a draft EIS in order to satisfy the requirements of NEPA, as well as SEPA, and the regulations of the applicable federal agency require items in addition to that set forth below, then the contents of the draft EIS may be expanded as necessary to meet the requirements of that federal agency.

(2) Introduction. The following information shall be succinctly set forth at the beginning of the draft EIS:

(a) Action sponsor, and a brief (one or two sentence) description of the nature of the proposal and its location (street address, or nearest crossroads or cross-streets).

(b) Lead agency, responsible official, and the name and address of a contact person to whom comments, information and questions may be sent.

(c) Authors and principal contributors to the draft EIS and the nature or subject area of their contribution.

(d) List of all licenses which the proposal is known to require.

(e) Location of EIS background data.

(f) Cost to the public for a copy of the EIS pursuant to RCW 42.17.

(g) Date of issue of the draft EIS.

(h) Dates by which consulted agency and public comments must be received to be incorporated into the final EIS.

(3) Table of contents.

(4) Distribution list. The draft EIS shall include a list of the names of all agencies, federal agencies, organizations and persons to whom the draft EIS will be sent upon publication [See WAC 197-10-460].

(5) Summary of the contents of the draft EIS. Each draft EIS shall contain a summary of its contents as an aid to the agency decision-makers. The lead agency is to bear in mind that agencies other than the lead agency may be utilizing the EIS as an aid in decision-making. Therefore, care should be taken to ensure that the scope of the summary and



the EIS is sufficiently broad to be useful to those other agencies being requested to license or approve a proposal. The summary shall contain only a short restatement of the main points discussed in the EIS for each of the various subject areas. In the event impacts cannot be predicted with certainty, the reason for uncertainty together with the more likely possibilities should be concisely stated. In most cases it is expected that the summary will run two to five pages, but it shall not be more than ten pages. The summary shall include a brief description of the following:

(a) The proposal, including the purpose or objectives which are sought to be achieved by the sponsor.

(b) The direct and indirect impacts upon the environment which may result from the proposal.

(c) The alternatives considered, together with any variation in impacts which may result from each alternative.

(d) Measures which may be effectuated by the applicant, lead agency, or other agency with jurisdiction to mitigate or eliminate adverse impacts which may result from the proposal.

(e) Any remaining adverse impacts which cannot or will not be mitigated.

(6) Description of the proposal. The draft EIS shall include a description of the total proposal, including, but not limited to, the following:

(a) The name of the proposal and sponsors.

(b) The location of the project, or area affected by a non-project action, including an address, if any, and a legal description: PROVIDED, That where the legal description is by metes and bounds, or is excessively lengthy, a map, in lieu of a legal description, shall be included which enables a lay person to precisely understand the location of the proposal.

(c) Reference to the file numbers, if known, of any other agencies involved so the proposal's location may be identified with precision by the consulted agency.

(d) If the proposal involves phased construction over a period of time, the timing of each construction phase should be identified; and if it is anticipated that later phases of the proposal will require future environmental analyses, these should be identified.

(e) A description of the major physical and engineering aspects of the proposal. This description should be tailored to the environmental impacts later discussed, with those physical aspects of the proposal causing the greater impacts being given the more detailed description. Inclusion of detailed engineering drawings and technical data should normally be avoided. Material of this nature should be retained in agency files and supplied to consulted agencies upon request.

(f) A brief description of existing comprehensive land use plans and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.

(g) Within the general guidelines of this subsection, the lead agency has discretion to determine the content and level of detail appropriate to adequately describe the proposal.

(7) Existing environmental conditions. This section shall include the following:

(a) A general assessment of the existing environment, covering those areas of the environment listed in WAC 197-10-444.

(i) The level of detail used in presenting the existing environment should be proportionate to the impacts the proposal will have if approved.

(ii) Areas of the environment which are not relevant to the identified impacts need only be mentioned generally, or not at all.

(iii) Inventories of the species of flora and fauna present on the site should be avoided; rather, emphasis should be placed upon those species and habitats which may be significantly affected.

(iv) This subsection shall be brief, non-technical, and easily understandable by lay persons, and provide the necessary background for understanding the proposal's impacts.

(b) Specific reference shall be made to those inventories and data studies which provided the informational source for part or all of the contents of this subsection.

(8) The impact of the proposal on the environment. The following items shall be included in this subsection:

(a) The known impacts resulting from the proposal within any element of the environment listed in WAC 197-10-444, the effects of which are either known to be, or which may be significant (whether beneficial or adverse), shall be discussed in detail; impacts which are potential, but not certain to occur, shall be discussed within reason.

(b) Elements of the environment which will not be significantly affected shall be marked "N/A" (not applicable) as set forth in WAC 197-10-444(1).

(c) Direct and indirect impacts of the total proposal, as described in subsection (8)(a) above shall be examined and discussed (for example, cumulative and growth-inducing impacts).

(d) The possibility that effects upon different elements of the environment will interrelate to form significant impacts shall be considered.

(9) The relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity. The following items shall be included in this subsection:

(a) An identification of the extent to which the proposal involves trade-offs between short-term gains at the expense of long-term environmental losses.

(i) The phrases "short-term" and "long-term" do not refer to any fixed time periods, but rather are to be viewed in terms of the significant environmental impacts of the proposal.

(ii) Impacts which will narrow the range and degree of beneficial uses of the environment or pose long-term risks to human health shall be given special attention.

(b) A discussion of the benefits and disadvantages of reserving for some future time the implementation of the proposal, as opposed to possible approval of the proposal at this time.

(i) The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations.

(ii) Particular attention should be given to the possibility of foreclosing future options or alternatives by implementation of the proposal.

(10) Irreversible or irretrievable commitments of resources. The following items shall be included in this subsection:

(a) An identification of all substantial quantities of natural resources, including sources of energy and nonrenewable materials, which will be committed by the proposal on a permanent or long-term basis. Commitment of natural resources also includes the lost opportunities to make other uses of the resources in question.

(b) This subsection may be integrated with subsection (9) above in order to more usefully present the information required by both sections.

(11) Adverse environmental impacts which may be mitigated. The following items shall be included in this subsection:

(a) A description of reasonable alterations to the proposal which may result in avoiding, mitigating or reducing the risk of occurrence of any adverse impacts upon the environment.

(b) Energy conservation measures, including more efficient utilization of conventional techniques (e.g., insulation) as well as newer methods.

(c) Each alternative discussed in (a) and (b) above shall be evaluated in terms of its effect upon the environment, its technical feasibility, and its economic practicability.

(12) Alternatives to the proposal. This subsection shall include the following items:

(a) A description and objective evaluation of any reasonable alternative action which could feasibly attain the objective of the proposal.

(i) Reasonable alternatives shall include any action which might approximate the proposal's objective, but at a lower environmental cost or decreased level of environmental degradation.

(ii) Reasonable alternatives may be those which are capable of being effected by either the lead agency or other agency having jurisdiction.

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

(c) The adverse environmental effects of each alternative shall be identified.

(d) The analysis of alternatives should be sufficiently detailed to permit a comparative evaluation of each alternative and the proposal as described in subsection (6) of this section.

(e) In those instances where the proposal is for a private project on a specific site, the alternatives considered shall be limited to the "no-action" alternative plus other reasonable alternative means of achieving the objective of the proposal on the same site or other sites owned or controlled by the same proponent (which may include only alterations for mitigation under subsection (11) of this section). This limitation shall not apply when the project proponent is applying for a rezone or contract rezone.

(f) Subsection (12) may be integrated with subsection (11) of this section in order to more usefully present the information required by both subsections.

(g) The use of the term "reasonable" is intended to limit both the number and range of alternatives that shall be described and evaluated in this subsection, as well as the amount or level of detail which the EIS shall employ for each alternative that is discussed and evaluated.

(13) Unavoidable adverse impacts. This subsection shall include the following items:

(a) A listing of those impacts included in subsection (8) of this section which are adverse but cannot, or will not, be mitigated or avoided by modifications to the project.

(b) For any impact discussed in subsection (8) of this section which is determined to be non-adverse, the rationale for such determination shall be clearly stated.

(c) [Optional] A discussion of the relationship between the costs of the unavoidable adverse environmental impacts and the expected beneficial environmental impacts which will result from the implementation of the proposed action.

(14) Other issues. A draft EIS may contain a section labeled "Other Issues" within which those other problems and

issues not pertaining to any element listed in WAC 197-10-444, but which are relevant to the proposal, shall be identified. The section shall be limited to a brief identification of such problems or issues. The lead agency may adopt guidelines that delineate the problems or issues identified under this subsection. [See WAC 197-10-446]

**WAC 197-10-442 SPECIAL CONSIDERATIONS REGARDING CONTENTS OF AN EIS ON A NON-PROJECT ACTION.** (1) The requirements of WAC 197-10-440 apply to the contents of a draft EIS on a proposal for a non-project action. Lead agencies, however, have greater flexibility in their approach to achieving compliance with the requirements of WAC 197-10-440 in writing an EIS for non-project actions, because normally less specific details are known about the proposal and any implementing projects, as well as the anticipated impacts on the environment.

(2) The lead agency should be alert to the fact that it is in the development and review of proposals for non-project actions where the range of alternatives is typically more broad than that of a proposal for a project action (which is often narrowed to a specific location and design). The proposal should be described in a manner which encourages consideration of a number of alternative methods of accomplishing its objective. For example, an objective of an agency's proposal should be stated as "the facilitation of the movement of people from point A to point B" rather than "the widening of an urban arterial in order to accommodate additional privately-owned passenger vehicles."

**WAC 197-10-444 LIST OF ELEMENTS OF THE ENVIRONMENT.**

(1) Every EIS shall have appended to it a list of the elements of the environment in subsection (2), (3) and (4) of this section. The lead agency shall place "N/A" ("not applicable") next to an item when the proposal, including its indirect impacts, will not significantly affect the area (or subarea) of the environment in question. Items marked "N/A" need not be mentioned in the body of the EIS. Subsections (2) and (3) of this section correspond in subject matter to the questions contained in the environmental checklist used for threshold determination, and the questions in the checklist may be used to interpret this outline listing.

**(2) ELEMENTS OF THE PHYSICAL ENVIRONMENT.**

- (a) Earth.
  - (i) Geology.
  - (ii) Soils.
  - (iii) Topography.
  - (iv) Unique physical features.
  - (v) Erosion.
  - (vi) Accretion/avulsion.
  
- (b) Air.
  - (i) Air quality.
  - (ii) Odor.
  - (iii) Climate.
  
- (c) Water.
  - (i) Surface water movement.
  - (ii) Runoff/absorption.

- (iii) Floods.
  - (iv) Surface water quantity.
  - (v) Surface water quality.
  - (vi) Ground water movement.
  - (vii) Ground water quantity.
  - (viii) Ground water quality.
  - (ix) Public water supplies.
- (d) Flora.
    - (i) Numbers or diversity of species.
    - (ii) Unique species.
    - (iii) Barriers and/or corridors.
    - (iv) Agricultural crops.
- (e) Fauna.
    - (i) Numbers or diversity of species.
    - (ii) Unique species.
    - (iii) Barriers and/or corridors.
    - (iv) Fish or wildlife habitat.
- (f) Noise.
- (g) Light and glare.
- (h) Land use.
    - (i) Natural resources.
    - (i) Rate of use.
    - (ii) Nonrenewable resources.
- (j) Risk of explosion or hazardous emissions.
- (3) ELEMENTS OF THE HUMAN ENVIRONMENT.
- (a) Population.
- (b) Housing.
- (c) Transportation/circulation.
    - (i) Vehicular transportation generated.
    - (ii) Parking facilities.
    - (iii) Transportation systems.
    - (iv) Movement/circulation of people or goods.
    - (v) Waterborne, rail and air traffic.
    - (vi) Traffic hazards.
- (d) Public services.
    - (i) Fire.
    - (ii) Police.
    - (iii) Schools.
    - (iv) Parks or other recreational facilities.
    - (v) Maintenance.
    - (vi) Other governmental services.
- (e) Energy.
    - (i) Amount required.
    - (ii) Source/availability.

- (f) Utilities.
- (i) Energy.
- (ii) Communications.
- (iii) Water.
- (iv) Sewer.
- (v) Storm water.
- (vi) Solid waste.
  
- (g) Human health (including mental health).
  
- (h) Aesthetics.
  
- (i) Recreation.
  
- (j) Archeological/historical.

(4) The following additional element shall be covered in all EISs, either by being discussed or marked "N/A," but shall not be considered part of the environment for other purposes:

- (a) Additional population characteristics.
- (i) Distribution by age, sex and ethnic characteristics of the residents in the geographical area affected by the environmental impacts of the proposal.

WAC 197-10-446 DRAFT EIS--OPTIONAL ADDITIONAL ELEMENTS--LIMITATION. Agencies in their guidelines may add to the list in WAC 197-10-444 additional elements covering social, cultural and/or economic issues. Such additional elements shall become part of the environment for EIS purposes, and not otherwise. The guidelines of the lead agency shall control the content of the EIS, even though other agencies with jurisdiction are involved in the proposal. No agency shall prescribe additional material for an EIS beyond that which is required or optionally allowed by WAC 197-10-440 and -444, or which is added to the elements of the environment by the guidelines of the lead agency pursuant to the authority in this section [see WAC 197-10-440(14)].

PUBLIC AWARENESS, HEARINGS AND CIRCULATION OF DRAFT EIS

WAC 197-10-450 PUBLIC AWARENESS OF AVAILABILITY OF DRAFT EIS. (1) Upon publication of the draft EIS, the responsible official shall list the proposal in the lead agency's "EIS Available Register" maintained at the agency's SEPA public information center.

(2) The lead agency is encouraged, but not required, to use any reasonable method calculated to inform the public of the availability of the draft EIS and of the procedures for requesting a public hearing. Examples of such methods are publication of notice in a newspaper of general circulation in the county, city or general geographic area where the proposal is located; notifying private groups that are known to be interested in a certain proposal; contacting news media personnel and encouraging news coverage; and, placing notices in appropriate regional, neighborhood or ethnic periodicals.

**WAC 197-10-455 CIRCULATION OF THE DRAFT EIS--REVIEW PERIOD.** (1) A consulted agency shall have a maximum of thirty-five days from the date of listing of the proposal in the "EIS Available Register" in which to review the draft and forward its comments and information with respect thereto to the lead agency. If a consulted agency with jurisdiction requires additional time to develop and complete new data on the proposal, a fifteen day extension may be granted by the lead agency. Extensions may not be granted for any other purpose.

(2) There shall be allowed a period of thirty-five days from the date of the listing of the proposal in the "EIS Available Register" for the public to forward to the lead agency any comments upon or substantive information related to the proposal and the draft EIS.

**WAC 197-10-460 SPECIFIC AGENCIES TO WHICH DRAFT EIS SHALL BE SENT.** (1) A copy of each draft EIS shall be mailed no later than the day that it is listed in the "EIS Available Register" to the following:

(a) The department of ecology.

(b) Each federal agency having jurisdiction by law over a proposed action.

(c) Each agency having jurisdiction by law over, or environmental expertise pertaining to a proposed action, as defined by WAC 197-10-040 and -465 (required by RCW 43.21C.030-2)(d)).

(d) Each city/county in which adverse environmental effects identified in the draft EIS may occur if the proposed action is implemented. (This subsection does not apply to draft EISs for non-project actions.)

(e) Each local agency or political subdivision which will be required to furnish additional public services as a result of implementation of the proposed action.

(f) The applicable regional planning commission, regional clearinghouse, statewide clearinghouse, or area-wide council of government which has been designated to review and coordinate local governmental planning under the A-95 review process and other federal regulations and programs [See RCW 36.64.080, RCW 35.63.070 and RCW 36.70.070].

(g) The lead agency's SEPA public information center.

(h) [Optional] 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 (e.g., local and regional libraries) may be sent a copy of the draft EIS.

(2) An agency that receives a copy of the draft EIS does not become a "consulted agency" under these guidelines due to that factor alone. [See WAC 197-10-040, -465, -510 and -520 for those provisions that define a consulted agency.]

**WAC 197-10-465 AGENCIES POSSESSING ENVIRONMENTAL EXPERTISE.** The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

(1) Air quality.

(a) Department of ecology.

(b) Department of natural resources (only for burning in forest areas).

(c) Department of social and health services.

(d) Regional air pollution control authority or agency.

- (2) Water resources and water quality.
  - (a) Department of game.
  - (b) Department of ecology.
  - (c) Department of natural resources (state-owned tidelands, 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.
  - (f) Oceanographic commission (marine waters).
  
- (3) Fish and wildlife.
  - (a) Department of game.
  - (b) Department of fisheries.
  - (c) Oceanographic commission (marine waters).
  
- (4) Solid waste.
  - (a) Department of ecology.
  - (b) Department of fisheries (dredge spoils).
  - (c) Department of social and health services.
  
- (5) Noise.
  - (a) Department of ecology.
  - (b) Department of social and health services.
  
- (6) Hazardous 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) Oceanographic commission (introduction into marine waters).
  
- (7) 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.
  - (f) Oceanographic commission (related to marine waters).
  
- (8) Energy production, transmission and consumption.
  - (a) Department of commerce and economic development (office of nuclear energy development--nuclear).
  - (b) Department of ecology.
  - (c) Department of natural resources (geothermal, coal, uranium).
  - (d) State energy office
  - (e) Thermal power plant site evaluation council (thermal power plants).
  - (f) Utilities and transportation commission.
  
- (9) 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 or state-owned or -managed lands).
  - (e) Office of community development.



- (10) Transportation.
  - (a) Department of highways.
  - (b) Utilities and transportation commission.
  - (c) Oceanographic commission (water borne).
- (11) 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.
- (12) Archaeological/historical.
  - (a) Parks and recreation commission.
  - (b) Washington state university at Pullman (Washington archaeological research council).

**WAC 197-10-470 COST TO THE PUBLIC FOR REPRODUCTION OF ENVIRONMENTAL DOCUMENTS.** The lead agency shall make available a copy of any environmental document, in the manner provided by Chapter 42.17, RCW, charging only those costs allowed therein and mailing costs: PROVIDED, That no charge shall be levied for circulation of documents to other agencies which is required by these guidelines.

**WAC 197-10-480 PUBLIC HEARING ON A PROPOSAL--WHEN REQUIRED.** (1) If a public hearing on the proposal is held pursuant to some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any available environmental document.

(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 the lead agency in meeting its responsibility to implement the purposes and goals of SEPA and these guidelines; 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-five days of the listing of the proposal in the "EIS Available Register"; or,
- (c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within thirty-five days of the listing of the proposal in the "EIS Available Register."

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no later than fifty-one days from the listing of the proposal in the "EIS Available Register" and no earlier than fifteen days from such date of listing.

**WAC 197-10-485 NOTICE OF PUBLIC HEARING ON ENVIRONMENTAL IMPACT OF THE PROPOSAL.** (1) Notice of all public hearings to be held pursuant to WAC 197-10-480(2) shall be published in a newspaper of general circulation in the area where the project will be implemented. For non-project actions the notice shall be published in the general area where the lead agency has its principal office. The notice shall be published no later than five days preceding the hearing. For non-project

proposals having regional or statewide applicability, copies of the notice shall be transmitted to the Olympia bureaus of the associated press and united press international.

(2) A notation of the hearing date and location shall be entered in the "EIS Available Register" maintained at the lead agency's SEPA public information center.

WAC 197-10-490 PUBLIC HEARING ON THE PROPOSAL--USE OF ENVIRONMENTAL DOCUMENTS. Whenever a public hearing is held on the environmental impact of a proposal, it shall be open to discussion of all environmental documents and any written comments which have been received by the lead agency prior to the hearing. A copy of the draft EIS shall be made available for public inspection at the public hearing.

WAC 197-10-495 PREPARATION OF AMENDED OR NEW DRAFT EIS. (1) A lead agency shall prepare an amended or new draft EIS whenever it determines:

(a) That substantial changes have been made in the proposal, or significant new information concerning anticipated environmental impacts has become available subsequent to circulation of the initial draft EIS, and

(b) That circulation of a new draft EIS is necessary to provide further input and review on the proposal.

(2) In such event, the lead agency shall follow the provisions of WAC 197-10-450 through -490 for the amended or new draft EIS.

#### RESPONSIBILITIES OF CONSULTED AGENCIES

WAC 197-10-500 RESPONSIBILITIES OF CONSULTED AGENCIES--LOCAL AGENCIES. Each local agency, when responding to a consultation request prior to a threshold determination, participating in pre-draft consultation, or reviewing a draft EIS, shall provide to the lead agency that substantive data, information, test results and other material which it possesses relevant to its area of jurisdiction, to the services it will provide, or to the impacts upon it associated with the proposal. Field investigations are not required of local consulted agencies. Local agencies are not required to transmit information which has been previously transmitted to the lead agency, or which is already reflected in the draft EIS.

WAC 197-10-510 RESPONSIBILITIES OF CONSULTED AGENCIES--STATE AGENCIES WITH JURISDICTION. Each state agency with jurisdiction, when responding to a consultation request prior to a threshold determination, participating in pre-draft consultation, or reviewing a draft EIS, shall immediately begin the research and, if necessary, field investigations which it would normally conduct in conjunction with whatever license it requires for a proposal; or, in the event no license is involved the agency with jurisdiction shall investigate the impacts of the activity it will undertake which gives it jurisdiction over a portion of the proposal. The end result of these investigations should be that each agency with jurisdiction will be able to transmit to the lead agency substantive information on those

environmental impacts of the proposal which are within the scope of the license or activity of the agency with jurisdiction. An agency with jurisdiction, in its response to the lead agency, should also indicate which of the impacts it has discovered may be mitigated or avoided and how this might be accomplished, and describe those areas of environmental risks which remain after it has conducted the investigations that may have been required.

**WAC 197-10-520 RESPONSIBILITIES OF CONSULTED AGENCIES-- STATE AGENCIES WITH ENVIRONMENTAL EXPERTISE.** (1) Each state agency participating in pre-draft consultation, or reviewing a draft EIS, lacking jurisdiction, but possessing environmental expertise pertaining to the impacts associated with a proposal [see WAC 197-10-465], when requested by the lead agency, shall provide to the lead agency that substantive data, information, test results or other material relevant to the proposal which the consulted agency then possesses relating to its area of special expertise.

(2) The consulted agency may at its option investigate, develop and transmit whatever additional information is necessary for the lead agency to meet its responsibilities under WAC 197-10-440 or -442.

**WAC 197-10-530 RESPONSIBILITIES OF CONSULTED AGENCIES-- WHEN PRE-DRAFT CONSULTATION HAS OCCURRED.** When a consulted agency has engaged in the pre-draft consultation procedures set forth in WAC 197-10-410, the scope and depth of its required review and comment upon the draft EIS is limited to those appropriate and relevant matters which were not contained in its previous response (such as when significant new information becomes available which was not available to the consulted agency during the pre-draft consultation stage).

**WAC 197-10-535 COST OF PERFORMANCE OF CONSULTED AGENCY RESPONSIBILITIES.** A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 197-10-500 through -540, including, but not limited to, such functions as providing relevant data to the lead agency and the reproduction of various documents that are transmitted to the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by Chapter 42.17, RCW, for the reproduction of any environmental document when the request for a copy of the document is from an agency other than the lead agency, or from an individual or private organization.

**WAC 197-10-540 LIMITATIONS ON RESPONSES TO CONSULTATION.** In those instances where part or all of the relevant data possessed by any consulted agency is either voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or consists of a report or document published by another agency, or represents a standard text or other work obtainable at a public library, such data or information may be clearly identified or cited by the consulted agency in its comments to the lead agency and the data itself need not be transmitted. When the consulted agency identifies relevant data, files or other material pursuant to this section, it shall describe briefly the nature of such information and clearly indicate its relevance to the environ-

mental analysis of the proposed action in question. If the details of the proposal supplied with the consultation request are not sufficient to allow a complete response, the consulted agency shall be required to transmit only that information it is capable of developing from the material sent to it with the consultation request.

WAC 197-10-545 EFFECT OF NO WRITTEN COMMENT. If a consulted agency does not respond with written comments within thirty-five days of the date of listing of the draft EIS in the "EIS Available Register," or fails to respond within the fifteen-day extension period which may have been granted by the lead agency, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal upon the subject area of the consulted agency's jurisdiction or special expertise. Any consulted agency which 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 WAC 197-10-400 through -495, or with the contents of the final EIS.

#### PREPARATION, CONTENTS AND CIRCULATION OF FINAL EIS

WAC 197-10-550 PREPARATION OF THE FINAL EIS--TIME PERIOD ALLOWED. The lead agency shall prepare a final EIS within seventy-five days of the listing of the proposal in the "EIS Available Register." The lead agency may extend the time period whenever the proposal is unusually large in scope, or the environmental impact associated with the proposal is unusually complex.

WAC 197-10-570 PREPARATION OF THE FINAL EIS--CONTENTS--WHEN NO CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS. (1) If the lead agency does not receive any comments critical of the scope or content of the draft EIS, the lead agency may prepare a statement to the effect that no critical comments were received and circulate that statement in the manner prescribed in WAC 197-10-600.

(2) The statement prepared and circulated pursuant to subsection (1) above, together with the draft EIS (which is not recirculated with the statement), shall constitute the "final EIS" for the proposal: PROVIDED, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

WAC 197-10-580 PREPARATION OF THE FINAL EIS--CONTENTS--WHEN CRITICAL COMMENTS RECEIVED ON THE DRAFT EIS. (1) When the lead agency receives any comments critical of the scope or content of the draft EIS, whether made in writing or made orally at any public hearing on the environmental impact of the proposal, it shall comply with either subsection (2) or (3) below.

(2) The lead agency may determine that no changes are required in either the draft EIS or the proposal, despite the critical comments that were received during the commenting

period. The lead agency must prepare a document containing a general response to the comments that were received, the text or summary of written comments, and a summary of the oral comments made by the public at any hearing held on the proposal or its environmental impacts. The lead agency shall then circulate the document in the manner prescribed in WAC 197-10-600: PROVIDED, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

(3) The lead agency may determine that it is necessary and appropriate to rewrite the contents of the draft EIS in order to respond to critical comments received during the commenting period. In such instances, the lead agency shall circulate the re-written EIS in the manner specified in WAC 197-10-600. The lead agency shall ensure that the re-written EIS evidences an affirmative response by the lead agency to the critical comments, or alternatively, contains a summary of those critical comments with which it does not agree.

(4) A document prepared and circulated pursuant to subsection (2) or (3) above shall constitute the "final EIS" for the proposal.

WAC 197-10-600 CIRCULATION OF THE FINAL EIS. The final EIS shall be circulated to the department of ecology, office of the governor or the governor's designee, the ecological commission, the lead agency's SEPA public information center, agencies with jurisdiction, and federal agencies with jurisdiction which received the draft EIS. It shall be made available to the public in the same manner and cost as the draft EIS.

#### USE OF OTHER EISs

WAC 197-10-650 EFFECT OF AN ADEQUATE FINAL EIS PREPARED PURSUANT TO NEPA. (1) The requirements of this chapter relating to the preparation of an EIS shall not apply when an adequate final EIS has been prepared pursuant to the national environmental policy act of 1969 (NEPA), in which event such EIS may be utilized in lieu of a final EIS separately prepared under SEPA.

(2) The final EIS of a federal agency shall be adequate unless:

(a) A court rules that it is inadequate; or,

(b) The administrator of the United States Environmental Protection Agency issues a written comment pursuant to the Federal Clean Air Act, 42 USC § 1.857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 197-10-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the lead agency determines that the federal EIS is adequate, it shall be listed in the "EIS Available Register" in the SEPA public information center.

(4) A public hearing on the sole issue of the adequacy of the content of a federal EIS shall be held if, within thirty-five days of its listing in the register, at least fifty persons who reside within the jurisdiction of the lead agency, or are

adversely affected by the environmental impact of the proposal, make written request therefor. The lead agency shall reconsider its determination of adequacy in view of comments received at any such public hearing.

**WAC 197-10-652 SUPPLEMENTATION BY A LEAD AGENCY OF AN INADEQUATE FINAL NEPA EIS.** When a final EIS prepared pursuant to NEPA is inadequate under the criteria set forth in WAC 197-10-650(2), then the lead agency shall either:

(1) Prepare a draft EIS independent of the final NEPA EIS or

(2) Modify or supplement the final NEPA EIS as necessary to prepare an adequate draft EIS.

**WAC 197-10-660 USE OF PREVIOUSLY PREPARED EIS FOR A DIFFERENT PROPOSED ACTION.** (1) An agency may adopt and utilize a previously prepared EIS, or portion thereof, to satisfy certain of the EIS requirements applicable to a different proposed action, as set forth in (2) and (3) below. In such event, two requirements shall be met:

(a) The previous EIS or portion thereof, together with any supplement to it, shall meet the requirements of these guidelines applicable to an EIS for the new proposed action, and

(b) A previous EIS shall not be used without an explanatory supplement where any intervening change in conditions would make the previous EIS misleading when applied to the new proposed action.

(2) When the new proposed action will have an impact on the environment that was not adequately analyzed in the previously prepared EIS, the lead agency shall prepare a draft supplemental EIS and comply with the provisions of WAC 197-10-400 through -695. The contents of the draft and final supplemental EIS shall be limited to those impacts of the proposed action which were not adequately analyzed in the earlier EIS.

(3) When the new proposed action will not have an impact on the environment that is substantially different than the impacts of the earlier proposed action, the lead agency may prepare a written statement setting forth its determination under this subsection and list the proposal in the "EIS Available Register." The lead agency shall not be required to prepare a new or supplemental draft or final EIS on the new proposed action when this subsection is determined to apply. The provisions of WAC 197-10-480 through -490, relating to a public hearing on the environmental impact of a proposal shall apply, however, to proposed actions determined to be under the provisions of this subsection.

**WAC 197-10-690 USE OF LEAD AGENCY'S EIS BY OTHER ACTING AGENCIES FOR THE SAME PROPOSAL.** (1) When an agency is considering an action which is identified as part of a proposal covered by a final EIS of a lead agency, and the agency now considering the action was consulted as an agency with jurisdiction during the consultation process on the previous EIS because of the action it is now considering, such agency must utilize the previous EIS unchanged when it is considering its present action except under the conditions of subsection (2) hereof.

(2) An agency with jurisdiction shall review and consider supplementing an EIS prepared by the lead agency only if:

(a) The proposal has been significantly modified since the lead agency prepared the EIS; or,

(b) The action now being considered was identified in the lead agency's EIS as one which would require further environmental evaluation; or,

(c) The level of design or planning for the proposal has become more detailed, revealing inadequately analyzed impacts; or,

(d) Technical data has become available which indicates the presence of a significant adverse environmental impact.

In such cases, the acting agency shall prepare a supplement to the lead agency's EIS if, and only if, it determines that significant adverse environmental impacts have been inadequately analyzed in the lead agency's EIS.

(3) If an agency is not listed as a licensing agency in the draft EIS pursuant to WAC 197-10-440(2)(d) and did not receive a copy of the draft EIS, such agency shall not be limited by the contents of the earlier EIS in preparing its statement.

**WAC 197-10-695 DRAFT AND FINAL SUPPLEMENTS TO A REVISED EIS.** (1) In any case where the lead agency is preparing a supplement to an earlier EIS or to an EIS prepared pursuant to NEPA, it shall prepare a draft supplemental EIS and comply with WAC 197-10-450. Copies of both the prior and supplemental EIS shall be maintained at the SEPA public information center, and copies of the prior EIS, as well as the supplement, shall be transmitted to the consulted agencies which had not previously received it.

(2) Upon preparation of the draft supplemental EIS, the lead agency shall comply with WAC 197-10-550 through -580 and the final supplemental EIS, together with the earlier EIS, shall be regarded as a final EIS for all purposes of these guidelines.

#### EFFECT OF EIS PROCEDURES ON AGENCY ACTIVITIES

**WAC 197-10-700 NO ACTION FOR SEVEN DAYS AFTER PUBLICATION OF THE FINAL EIS.** No agency shall take any major action (as defined in WAC 197-10-040(24)) on a proposal for which an EIS has been required, prior to seven days from the publication of the final EIS and its listing in the "EIS Available Register" maintained at the agency's SEPA public information center.

**WAC 197-10-710 EIS COMBINED WITH EXISTING PLANNING AND REVIEW PROCESSES.** The EIS process shall be combined with the existing planning, review and project approval processes being used by each agency with jurisdiction by law over a proposal. When required to be prepared, the EIS, the declaration of non-significance, or the previously circulated EIS being utilized pursuant to WAC 197-10-660, shall accompany a proposal through the existing review processes.

## REQUIREMENTS FOR AGENCY GUIDELINES

**WAC 197-10-800 RESPONSIBILITIES OF AGENCIES TO ADOPT GUIDELINES.** (1) Each state and local agency is required by RCW 43.21C.120 to adopt its own rules, ordinances or resolutions governing the implementation of SEPA, consistent with the provisions of this chapter. (These state and local rules are termed "agency guidelines" in these guidelines.) State agencies shall adopt their guidelines within one hundred twenty days of the effective date of this chapter, and local agencies shall adopt their guidelines within one hundred eighty days of the effective date of this chapter.

(2) Adoption of guidelines by state agencies shall be by rule making under Chapter 34.04, RCW, and adoption shall be deemed to have taken place at the time the transmittal of rules adopted is filed with the code reviser. Universities, colleges and community colleges shall utilize the procedures of Chapter 28B.19, RCW, for adoption of guidelines.

(3) Local agencies shall adopt their guidelines by rule, ordinance or resolution, whichever is appropriate, to ensure that the guidelines have the full force and effect of law.

(4) Any agency which determines that all actions which it is authorized to undertake are exempt by virtue of WAC 197-10-040(2), -150 through -190 may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under the provisions of this chapter. Adoption of such a statement shall be deemed to be compliance with the requirement that such agency adopt guidelines consistent with this chapter.

(5) The adoption of agency guidelines shall not be an "action" under these guidelines.

**WAC 197-10-805 AGENCY GUIDELINES CONSISTENT WITH THIS CHAPTER.** (1) Agency guidelines shall implement the provisions of this chapter and be consistent therewith. Unless clearly designated as optional, all of the provisions of this chapter are mandatory and agency guidelines shall incorporate the criteria and procedures therein. Unless designated otherwise in subsection (3) hereof, the provisions of this chapter are not exclusive, and agencies may add additional procedures, and in some cases criteria to those set forth in this chapter. Such additional material may not be inconsistent with, contradict, or make compliance with any provision of this chapter a practical impossibility; any additional provisions shall also be consistent with SEPA.

(2) Wherever a provision of this chapter is designated as optional, unless the context clearly indicates otherwise, the decision on whether an optional provision applies lies with the lead agency. The lead agency's guidelines must either require or authorize use of any optional provision before the lead agency requires compliance with any such optional provision.

(3) The following provisions of this chapter are exclusive and may not be added to or modified in agency guidelines:

(a) The definitions of "action," "agencies with jurisdiction," "environment," "lands covered by water," "license," "licensing," "major action" and "physical environment" contained in WAC 197-10-040;

(b) The information required of a private applicant by WAC 197-10-100, -310, -330, -365 and -420;

(c) The categorical exemptions of WAC 197-10-170 and -175, where the agency has legal authority over the category of action specified or it is one of the specific agencies



listed in -175 (exemptions may be modified only by using the procedures of WAC 197-10-150, although application of certain exemptions may be varied by designating environmentally sensitive areas pursuant to WAC 197-10-177). The emergency exemption of WAC 197-10-180 may be further specified by agency guidelines;

(d) The criteria for lead agency determination within WAC 197-10-205 through -230 (a different lead agency may result from utilization of the procedures in WAC 197-10-235, -240, -245 and -345).

(e) The questions on the environmental checklist, WAC 197-10-365, which also constitute the exclusive environment to be considered in making the threshold determination;

(f) The subject matters contained within an EIS as provided by WAC 197-10-440, -442 and -444, except as optional additions are allowed by those sections or WAC 197-10-446; and,

(g) The list of agencies possessing environmental expertise contained in WAC 197-10-465.

**WAC 197-10-810 RESPONSIBILITY OF AGENCIES--AMENDMENTS TO THIS CHAPTER.** In the event that CEP or its successor agency adopts amendments to this chapter, state and local agencies shall adopt amendments of their own guidelines within one hundred twenty days and one hundred eighty days, respectively, to bring their guidelines into conformance with this chapter as amended.

**WAC 197-10-820 RESPONSIBILITY OF AGENCIES--DESIGNATION OF RESPONSIBLE OFFICIAL.** Guidelines adopted by all agencies shall designate or provide a method of designating the responsible official with speed and certainty. This designation may vary depending upon the nature of the proposal. The responsible official shall carry out the duties and functions of the agency when it is acting as the lead agency under these guidelines. Since it is possible under these guidelines for an agency to be acting as a lead agency prior to actually receiving an application for a license to undertake a private project, designation of the first department within the agency to receive an application as the responsible official will not be sufficient.

**WAC 197-10-825 RESPONSIBILITY OF AGENCIES--PROCEDURES WHEN CONSULTED AGENCY.** Each agency shall develop internal procedures for providing responses to consultation requests from other agencies pertaining to threshold investigations, pre-draft consultation, or draft EISs. Such procedures shall ensure that the agency will be able to comply with the requirements of WAC 197-10-500 through -540. It is recommended that these procedures be integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency.

**WAC 197-10-830 RESPONSIBILITY OF AGENCIES--SEPA PUBLIC INFORMATION CENTER.** (1) Each agency shall establish and designate one location for its SEPA public information center, located in any existing office of the agency, or within any readily accessible public building within the region. Efforts must be made to make its existence and location known to the public and employees of the agency.

(2) The following documents shall be maintained at each agency's SEPA public information center:

(a) Copies of all declarations of non-significance filed by the agency, for a period of one year.

(b) Copies of all EISs prepared by the agency, for a period of three years. Draft EISs which have been superseded by a final EIS need not be maintained at the center.

(3) In addition, the agency shall maintain the following registers at its information center, each register including for each proposal its location, a brief (one sentence or phrase) description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained:

(a) A "Proposed Declaration of Non-Significance Register" which shall contain a listing of all current proposed declarations of non-significance.

(b) An "EIS in Preparation Register" which shall contain a listing of all proposals for which the agency is currently preparing an EIS, and the date by which the EIS is expected to be available.

(c) An "EIS Available Register" which shall contain a listing of all draft and final EISs prepared by the agency during the previous six months, including thereon the date by which comments must be received on draft EISs, and the date for any public hearing scheduled for the proposal.

(4) Each of the registers required by subsection (3) hereof shall be kept current and maintained at the information center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every two weeks to those organizations and individuals who make written request therefor, unless no new proposals are placed on the register, in which event a copy of the register or update shall be mailed when a new proposal is added. Agencies may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

(5) The documents required to be maintained at the information center shall be available for public inspection, and copies thereof shall be provided upon written request. Agencies may charge for copies in the manner provided by Chapter 42.17, RCW, and for the cost of mailing.

**WAC 197-10-835 REGIONAL SEPA PUBLIC INFORMATION CENTERS.** (1) Local agencies are encouraged to establish regional SEPA public information centers on a county-by-county basis. A regional SEPA public information center may be established by agreement for and among several local agencies. Approval by CEP is required to establish a regional SEPA public information center.

(2) Any local agency may petition CEP to be designated as the regional SEPA public information center for any county. CEP shall rule upon any such petition considering the willingness and ability of the petitioning agency to undertake the functions of a SEPA public information center [see WAC 197-10-830] on a regional basis, and any other factors CEP deems appropriate. If a petition is granted, the petitioning agency shall be designated the regional SEPA public information center for the county in question. CEP shall immediately notify all local agencies within the county of the designation of a regional center. CEP shall also maintain a list of the regional centers which have been established, which list will be available upon request. No more than one regional information center will be established per county.

(3) For any proposal which will affect a county in which a regional SEPA public information center has been designated, the lead agency shall transmit to the regional center all documents required to be maintained at such a SEPA public information center, together with information needed to update the registers maintained at such center.

(4) Any local agency whose jurisdiction lies entirely within a county or counties in which a regional SEPA public information center is established is not required to maintain its own SEPA public information center but may if it so desires.

(5) State agencies proposing non-project actions of regional or statewide applicability shall transmit to the regional SEPA public information centers within counties affected thereby the information needed to update the registers of the regional centers, together with any notices made under WAC 197-10-450, but shall not be required to transmit any other environmental document to the regional centers. State agencies considering proposed project or licensing actions shall comply with subsection (3) hereof in the same manner as local agencies.

(6) Any regional SEPA public information center established pursuant to this section shall undertake all of the duties assigned to a SEPA public information center by WAC 197-10-830 on a county-wide basis. One set of registers shall be established covering all proposals within the county.

(7) Agencies are encouraged to share the costs of regional centers through intergovernmental agreements.

(8) For the purposes of this section only, a county includes all other jurisdictions within its boundaries.

WAC 197-10-840 APPLICATION OF AGENCY GUIDELINES TO ONGOING ACTIONS. (1) Agency guidelines shall apply to any proposed action when initiated subsequent to the effective date of the guidelines of the lead agency or the agency proposing the action.

(2) For proposals made prior to the effective date of the guidelines of the lead agency or the agency proposing the action, agency guidelines shall apply to those elements of SEPA compliance remaining to be undertaken subsequent to the effective date of such guidelines. Agency guidelines adopted pursuant to RCW 43.21C.120 and the requirements of this chapter shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed prior to the effective date of the guidelines of the lead agency or agency proposing the action.

WAC 197-10-860 FEES TO COVER THE COSTS OF SEPA COMPLIANCE. Except for the reproduction and mailing costs specifically allowed by this chapter, and the provisions of WAC 197-10-535, these guidelines neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance.

APPLICABILITY OF THIS CHAPTER

WAC 197-10-900 APPLICABILITY OF THIS CHAPTER. (1) This chapter is intended to provide guidelines for the rules, ordinances, resolutions and regulations which state and local agencies are required to adopt pursuant to RCW 43.21C.120.

(2) In the event any agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the time periods required by RCW 43.21C.120, the guidelines of this chapter shall be applied insofar as practicable to the actions of such agency.

WAC 197-10-910 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

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FLOW CHART

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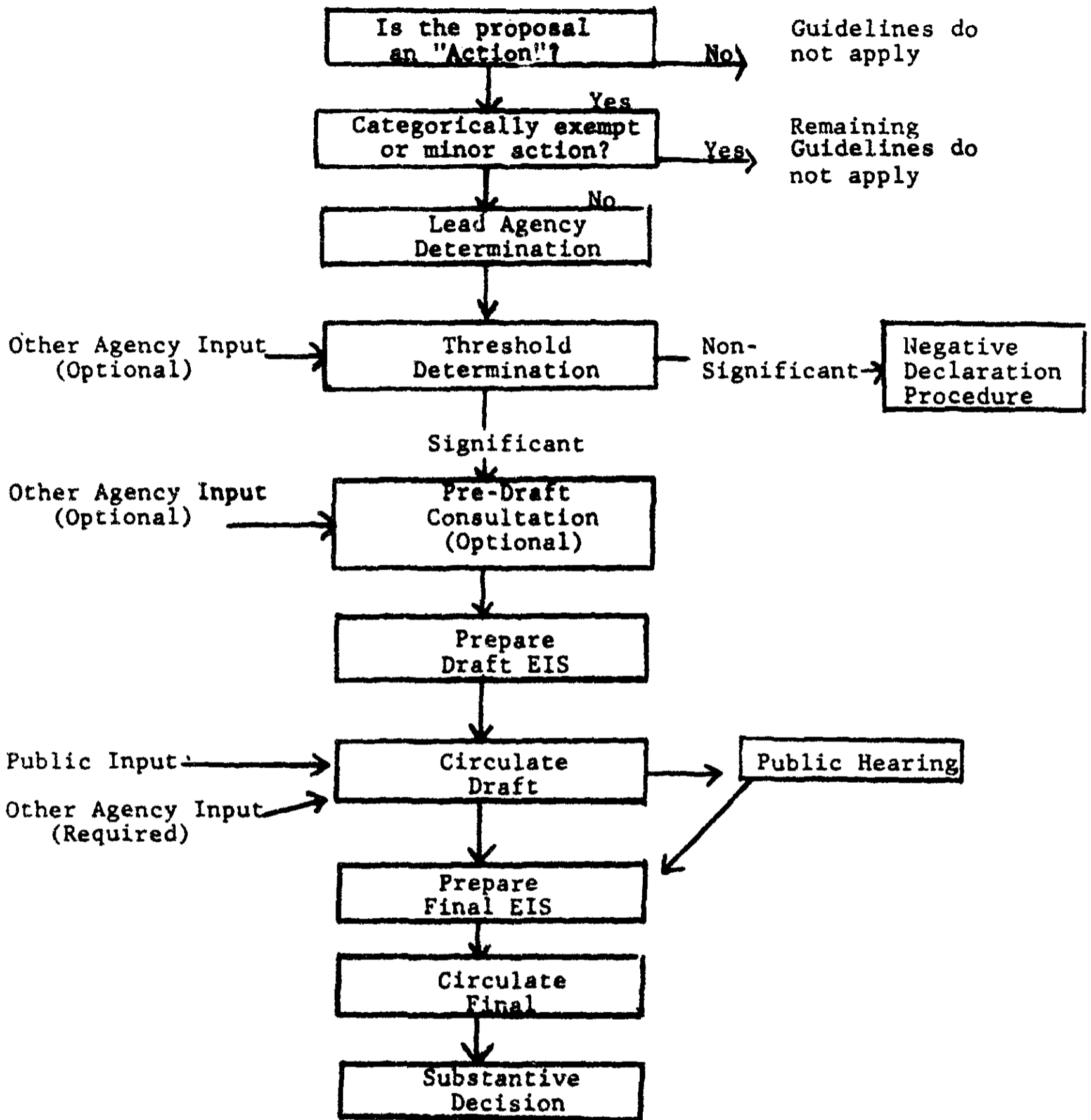
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FLOW CHART - SEPA GUIDELINES\*



\* IMPORTANT NOTE: This flow chart is intended to be used as an aid to an understanding of the major steps involved in the typical situation arising under SEPA and these guidelines. You should consult the guidelines, however, for details as to each step indicated above and possible variations or exceptions thereto.





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TABLE OF REFERENCED CITATIONS\*

United States Code (USC)

- 23 USC 402, p. 17 [-175(10)]  
(Highway Safety Act of 1973)
- 33 USC 1251, p. 16 [-175(9)]  
(Federal Water Pollution Control Act)
- 33 USC 1341, p. 12 [-170(15)]  
(Federal Water Pollution Control Act)
- 42 USC 1857, p. 53 [-650]  
(Clean Air Act)
- 43 USC 4321, p. 53 [-650]  
(National Environmental Policy Act of 1969)

Revised Code of Washington (RCW)

- RCW 15.58, p. 16 [-175(8)]
- RCW 15.58.040, .050, p. 16 [-175(8)]
- RCW 16.58.040, p. 16 [-175(8)]
- RCW 16.65.030, p. 16 [-175(8)]
- RCW 19.105, p. 14 [-175(2)(a)]
- RCW 28B.19, p. 56 [-800]
- RCW 34.04, p. 7, 56 [-150, -800]
- RCW 35.63.070, p. 47 [-460]
- RCW 36.64.080, p. 47 [-460]
- RCW 36.70.070, p. 47 [-460]
- RCW 36.94.100, p. 15 [-175(7)]
- RCW 42.17, p. 39, 49, 57 [-420(3), -470, -830]
- RCW 43.21C, State Environmental Policy Act of 1971

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\*NOTE: These guidelines contain a number of citations to applicable programs, licenses and activities conducted by agencies pursuant to federal law (USC), state statutory law (RCW), and state regulations (WAC). This table is intended to provide a ready reference for those citations. A copy of any of these legal sources may be requested at your nearest library or through its inter-library loan program.

RCW 46.80, p. 14 [-175(2)]  
RCW 58.17.060, p. 11 [-170(10)]  
RCW 70.38.120, p. 15 [-175(7)]  
RCW 70.94.181, p. 12 [-170(13)]  
RCW 70.95.100, p. 15, 16 [-175(6), -175(9)]  
RCW 70.98.080, p. 15 [-175(7)]  
RCW 75.20.100, p. 14, 15 [-175(5), -175 (6)]  
RCW 76.04, p. 21 [-230(4)]  
RCW 76.09.240, p. 21 [-230(4)]  
RCW 78.52.125, p. 21 [-230(3)]  
RCW 79.01.652, p. 14 [-175(4)(h)]  
RCW 79.01.616, p. 14 [-175(4)(h)]  
RCW 79.76.070, p. 14 [-175(4)(e)]  
RCW 80.50.175, p. 21 [-230(1)]  
RCW 81.80, p. 17 [-175(11)]  
RCW 81.88, p. 17 [-175(11)]  
RCW 84.34, p. 11 [-170(10)]  
RCW 90.62.120, p. 20 [-203]  
RCW 90.62, p. 21 [-230(6)]

Washington Administrative Code (WAC)

WAC 16-28, p. 16 [-175(8)] (Department of Agriculture)  
WAC 16-30, p. 16 [-175(8)]  
WAC 16-222-145, p. 16 [-175(8)]  
WAC 16-222-160, p. 16 [-175(8)]  
WAC 16-222-220, p. 16 [-175(8)]  
WAC 248-14-510, p. 15, 16 [-175(7)] (Department of Social and  
Health Services)  
WAC 248-22-015, p. 15, 16 [-175(7)]  
WAC 248-54-280, p. 15, 16 [-175(7)]  
WAC 248-54-300, p. 15, 16 [-175(7)]  
WAC 248-92-040, p. 15, 16 [-175(7)]

## STATE ENVIRONMENTAL POLICY ACT

RCW 43.21C.010 PURPOSES. The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between man and his environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and stimulate the health and welfare of man; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation. [1971 ex.s. c 109 § 1.]

RCW 43.21C.020 LEGISLATIVE RECOGNITIONS--DECLARATION--RESPONSIBILITY. (1) The legislature, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) to create and maintain conditions under which man and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to 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 esthetically and culturally pleasing surroundings;

(c) Attain 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.

(3) The legislature 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. [1971 ex.s. c 109 § 2.]

RCW 43.21C.030 GUIDELINES FOR STATE AGENCIES, LOCAL GOVERNMENTS--STATEMENTS--REPORTS--ADVICE--INFORMATION. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state

of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the world-wide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects.  
[1971 ex.s. c 109 § 3.]

RCW 43.21C.035 CERTAIN IRRIGATION PROJECTS DECISIONS  
EXEMPT FROM RCW 43.21C.030(2)(C). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural

irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 1st ex.s. c 150 § 1.]

**RCW 43.21C.040 EXAMINATION OF LAWS, REGULATIONS, POLICIES BY STATE AGENCIES AND LOCAL AUTHORITIES--REPORT OF DEFICIENCIES AND CORRECTIVE MEASURES.** All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 § 4.]

**RCW 43.21C.050 SPECIFIC STATUTORY OBLIGATIONS NOT AFFECTED.** Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 § 5.]

**RCW 43.21C.060 CHAPTER SUPPLEMENTARY.** The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. [1971 ex.s. c 109 § 6.]

**RCW 43.21C.070 ESTABLISHMENT OF CLASSIFICATIONS AND CATEGORIES OF BUILDING PERMITS AND ACTS OF GOVERNMENTAL AGENCIES CONCERNING FAMILY RESIDENCES--EXEMPTION FROM "DETAILED STATEMENT" REQUIREMENT.** The department of ecology shall, within forty-five days from July 1, 1973, after notice and hearing, promulgate rules and regulations pursuant to chapter 34.04 RCW to establish classifications and categories of building permits and acts of governmental agencies concerning an individual single family residence, which classification and category shall be exempt from the "detailed statement" required by RCW 43.21C.030. Building permits and acts not so classified shall not be presumed to either require or not require a "detailed statement". [1973 1st ex.s. c 179 § 1.]

NOTES:

**Effective date--1973 1st ex.s. c 179:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 § 4.] This applies to RCW 43.21C.070-43.21C.090.

**RCW 43.21C.080 NOTICE OF ACTION BY GOVERNMENTAL AGENCY--HOW PUBLICIZED--FORM--TIME LIMITATION FOR COMMENCING CHALLENGE**

**TO ACTION.** (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in subsection (3) of this section and in the following manner:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia; and

(c) Where no detailed statement is filed and where the property which is the subject matter of the action is under ten acres, such action shall be publicized by sending a notice of such action through the United States mail, first class, postage prepaid, to all owners of property abutting the property which is the subject matter of such action, as such property owners appear on the property tax rolls of the county treasurer. An affidavit of mailing of such notice may be filed with the department of ecology at the same time as the filing of the notice of the governmental action.

(2) Any action to set aside, enjoin, review, or otherwise challenge any such governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within sixty days from the date of filing of the notice with the department of ecology, the date of final newspaper publication, or date of mailing, if applicable, whichever is later, or be barred: PROVIDED, HOWEVER, That (1) The time period within which an action shall be commenced shall be ninety days for projects to be performed by a governmental agency or to be performed under government contract, or (2) for thermal power plant projects: PROVIDED FURTHER, That any subsequent action of the acting governmental agency for which the regulations of the acting governmental agency permit the same detailed statement to be utilized and as long as there is no substantial change in the project between the time of the action and any such subsequent action, shall not be set aside, enjoined, reviewed, or thereafter challenged on grounds of noncompliance with RCW 43.21C.030 (2) (c).

(3) The form for such notice of action shall be issued by the department of ecology and shall be made available by the governmental agency taking an action subject to being publicized pursuant to this section, by the county auditor, and/or the city clerk to the project applicant or proposer. The form of such notice shall be substantially as follows:

**NOTICE OF ACTION BY**

\_\_\_\_\_  
(Government agency or entity)

Pursuant to the provisions of chapter 43.21C RCW, notice is hereby given that:

The \_\_\_\_\_ (Government agency or entity) did on \_\_\_\_\_ (date), take action which may or may not be held or deemed to be "a major action significantly affecting the quality of the environment".

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced within \_\_\_\_\_ days or be barred.

The action taken by \_\_\_\_\_ (Government agency or entity), notice of which is hereby given, was as follows:

(1) \_\_\_\_\_ (Here insert description of action taken such as: Adoption Ordinance No. \_\_\_\_\_; Issued Building Permit; Approved preliminary (or final) plat, etc.)

(2) \_\_\_\_\_ (Here insert description of the project.)

(3) Said action pertained to property commonly known as:

-----  
-----  
-----  
(Sufficient description to locate property, but complete legal description not required)

(4) Pertinent documents may be examined during regular business hours at the office of: \_\_\_\_\_ located at:

-----  
(Location, including room number)

-----  
(Name of government agency, proponent, or applicant giving notice)

Filed by \_\_\_\_\_

-----  
(Signature of individual and capacity in which such individual is signing)

[1974 1st ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

**NOTES:**

**PURPOSE--1974 1st ex.s. c 179:** "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 1st ex.s. c 179 § 1.] This applies to RCW 43.21B.250 and 43.21C.080-43.21C.087, 43.21C.100-43.21C.160, and 43.21C.910.

**RCW 43.21C.085 LIMITATIONS ON CHALLENGES TO ACTIONS TAKEN--APPLICATION TO CHALLENGE OR APPEAL ON ADOPTION OF RULES.** The limitations on challenges to action taken by a governmental entity under RCW 43.21C.080 shall not constitute the time limits for a challenge or appeal on the adoption of rules by state agencies, political subdivisions, public or municipal corporations or counties, but the limitations under RCW 43.21C.080 shall apply to a challenge or appeal of such rule adoption on grounds of noncompliance with RCW 43.21C.030(2)(c). [1974 1st ex.s. c 179 § 3.]

**RCW 43.21C.087 LIST OF FILINGS REQUIRED BY RCW 43.21C.080.** The department of ecology shall prepare a list of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 1st ex.s. c 179 § 14.]

**RCW 43.21C.090 DECISION OF GOVERNMENTAL AGENCY TO BE ACCORDED SUBSTANTIAL WEIGHT.** In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 § 3.]



**RCW 43.21C.100 COUNCIL ON ENVIRONMENTAL POLICY--ESTABLISHED--COMPOSITION--ABOLISHMENT.** There is hereby established the council on environmental policy which shall be composed of the members of the pollution control hearings board.

The council shall be abolished and shall cease to exist at midnight, June 30, 1976. The guidelines established by the council prior to midnight, June 30, 1976, shall continue to be valid and of force and effect, except as they are thereafter amended by further guidelines promulgated by the department of ecology, in accord with chapter 34.04 RCW.

Upon the abolishment of the council on June 30, 1976, all powers, duties and functions of the council are transferred to the department of ecology. [1974 1st ex.s. c 179 § 4.]

**RCW 43.21C.105 COUNCIL ON ENVIRONMENTAL POLICY--PERSONNEL.** The council may employ such personnel as are necessary for the performances of its duties. [1974 1st ex.s. c 179 § 5.]

**RCW 43.21C.110 COUNCIL ON ENVIRONMENTAL POLICY--POWERS, DUTIES AND FUNCTION.** It shall be the duty and function of the council:

(1) To adopt initially and amend thereafter rules of interpretation and implementation of this chapter (the state environmental policy act of 1971), subject to the requirements of chapter 34.04 RCW, for the purpose of providing guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The rule making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter (the state environmental policy act of 1971):

(a) Categories of governmental actions which normally are to be considered as potential major actions significantly affecting the quality of the environment as well as categories of actions exempt from such classification, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW.

(b) Criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Procedures applicable to the preparation of detailed statements, including but not limited to obtaining comments, data and other information, and providing for and determining areas of public participation.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable.

(e) Procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter.

(g) Guidelines for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare guidelines for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Guidelines for utilization of a detailed statement for more than one action.

(k) Guidelines relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(2) In exercising its powers, functions, and duties under this section, the council may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of RCW 34.04.070 and 34.04.080. [1974 1st ex.s. c 179 § 6.]

**RCW 43.21C.120 RULES, ORDINANCES, RESOLUTIONS AND REGULATIONS--ADOPTION--EFFECTIVE DATES.** (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Adoption of the initial rules required under this section shall take place not later than one hundred twenty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.04 RCW and shall be subject to the review procedures of RCW 34.04.070 and 34.04.080.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Adoption of the initial rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new ordinances or regulations. [1974 1st ex.s. c 179 § 8.]

**RCW 43.21C.130 MODEL ORDINANCES.** The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter. [1974 1st ex.s. c 179 § 10.]

**RCW 43.21C.140 REVIEW OF ACTIONS TAKEN TO IMPLEMENT CHAPTER--REPORT TO LEGISLATURE.** Each state agency, political

subdivision, municipal and public corporation, and county shall review all actions taken to implement this chapter (the state environmental policy act) and may submit a report of such actions to the office of program planning and fiscal management, which shall compile and analyze such data and prepare a report which shall be submitted to the forty-fifth regular session of the legislature. In addition information on the cost of implementation and administration of the act shall be included in such report including the cost of preparation of all detailed statements since May 5, 1974. [1974 1st ex.s. c 179 § 11.]

**RCW 43.21C.150 RCW 43.21C.030(2)(c) INAPPLICABLE WHEN STATEMENT PREVIOUSLY PREPARED PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT.** The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

**RCW 43.21C.160 UTILIZATION OF STATEMENT PREPARED UNDER RCW 43.21C.030 TO IMPLEMENT CHAPTER 90.62 RCW--UTILIZATION OF CHAPTER 90.62 RCW PROCEDURES TO SATISFY RCW 43.21C.030(2)(c).** In the implementation of chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 1st ex.s. c 179 § 13.]

**RCW 43.21C.165 CHALLENGES TO CONSISTENCY OF RULES ADOPTED PURSUANT TO RCW 43.21C.110 AND 43.21C.160--PROCEDURE--FINALITY.** See RCW 43.21B.250.

**RCW 43.21C.900 SHORT TITLE.** This chapter shall be known and may be cited as the "State Environmental Policy Act of 1971". [1971 ex.s. c 109 § 7.]

**RCW 43.21C.910 SEVERABILITY--1974 1ST EX.S. C 179.** If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 1st ex.s. c 179 § 16.]