

TRANSMITTAL OF RULES ADOPTED

FROM: Washington State Aeronautics Commission
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)
OLYMPIA 98504

The enclosed rules Permanent rules , being Order No. 77-1
Emergency rules

relating to (Name of rules or description of subject matter)

WAC chapter 12-10, SEPA guidelines, to implement the policies and procedures of the State Environmental Policy Act of 1971.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 7695 ① filed with the code reviser on 7/29/77 ② were regularly adopted as permanent rules of this agency at FAA Building, Boeing Field Seattle, WA on 8/19/77 and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be _____ ③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order, that the immediate adoption of these rules is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, were regularly adopted as emergency rules of this agency at _____ on _____ and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW have been fulfilled.

Dated this 19th day of August 1977.

STATE OF WASHINGTON
FILED

AUG 22 1977

WASHINGTON STATE AERONAUTICS COMMISSION
(AGENCY)

By [Signature]

Chairman
Title

CODE REVISER'S OFFICE

DOCKET # 8404 FILE # 3

① Notice number as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use no. of last notice)
② Stamped date as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use date of last notice)
③ Unless a later date is specified in this order or is prescribed in another statute, rules are effective 30 days after filing:
RCW 34.04.040. Leave this space blank except in such special cases.
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

State of Washington

WASHINGTON STATE AERONAUTICS COMMISSION

(name of governing body)

(agency name, if applicable)

Resolution No. 5

Administrative Order No. 77-1

(1) Be it resolved by the Washington State Aeronautics Commission, State of Washington,

ALTERNATIVE A. Use only for Adoption of Permanent Rules.

after due notice and in a meeting open to the public, held at Federal Aviation Administration Bldg., Boeing Field, Seattle, WA 98108 on 8/19/77, as required by chapters 34.04 and 42.30 RCW, do promulgate and adopt as permanent rules of this governing body, the annexed rules:

WAC chapter 12-10, SEPA guidelines to implement the policies and procedures of the State Environmental Policy Act of 1971.

ALTERNATIVE B. Use only for Adoption of Emergency Rules.

promulgate and adopt as emergency rules of this governing body, the annexed rules:

We, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(2) Pursuant to the requirements of RCW 34.04 (1977 c 19 § 2) that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

[X] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW 43.21C.120 which directs that the

Washington State Aeronautics Commission

(agency)

has authority to implement the provisions of The State Environmental Policy Act of 1971

(name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(3) This order after being first recorded in the order register of this governing body shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED August 19, 1977

By [Signature]

Chairman

Title

Chapter 12-10

GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL
POLICY ACT

WAC

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NEW SECTION

WAC 12-10-010 AUTHORITY. This chapter is promulgated pursuant to the authority granted in RCW 43.21C.110.

NEW SECTION

WAC 12-10-020 SUBSTITUTION OF COMMISSION. Wherever reference is made in this chapter to 'state and/or local agencies' or 'agency,' such language shall be deemed to refer to the Commission, unless a contrary intent is clearly shown. Notwithstanding the foregoing, references in WAC 12-10-170(4)(b) and WAC 12-10-170(4)(d) shall continue to refer generally to agencies other than the Commission.

NEW SECTION

WAC 12-10-025 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 12-10-040(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, 43.21C.085 and 43.21C.087. Persons and agencies wishing to utilize these provisions shall follow the statutory language and any applicable regulations of the department of ecology.

NEW SECTION

WAC 12-10-030 PURPOSE. (1) The purpose of this chapter is to implement the statewide guidelines (WAC 12-10) established by the Council on Environmental Policy as they apply to actions of the Commission.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Commission 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 Commission 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.

NEW SECTION

WAC 12-10-035 EFFECT OF SEPA. The State Environmental Policy Act provides additional standards for agency decision-making for all activities which may have an impact on the environment. The processes of the State Environmental Policy Act, including but not limited to detailed statement requirements, are aimed at making more informed decisions, and toward projects with greater public and environmental acceptability. The process should foster mutual communication, understanding and cooperation among applicants, governmental agencies and citizens. All reasonable alternatives and mitigative/compensatory measures should be explored.

NEW SECTION

WAC 12-10-040 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 12-10-170, 12-10-175 and 12-10-180 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 12-10-465, 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 12-10-355 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 12-10-355 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 12-10-444.

(14) Environmental Checklist. Environmental checklist means the form contained in WAC 12-10-365.

(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 12-10-177, 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 12-10-570, 12-10-580 or 12-10-695.

(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 12-10-200 through 12-10-270 or 12-10-345, 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 12-10-444 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 12-10-170, 12-10-175 and 12-10-180.

(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 12-10-444(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 12-10-060.

(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. The director shall be the responsible official of the Commission.

(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.

NEW SECTION

WAC 12-10-050 USE OF THE ENVIRONMENTAL CHECKLIST FORM. A form is provided in WAC 12-10-365 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 predraft 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.

NEW SECTION

WAC 12-10-055 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. The Commission shall identify in each matter coming before it for action the time at which the EIS process shall be completed. 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.

NEW SECTION

WAC 12-10-060 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.

NEW SECTION

WAC 12-10-100 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 official 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 12-10-365 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 12-10-310].

(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 12-10-330.]

(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 12-10-420.] 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.

NEW SECTION

WAC 12-10-160 NO PRESUMPTION OF SIGNIFICANCE FOR NONEXEMPT 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.

NEW SECTION

WAC 12-10-170 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, guardrail 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.

(l) 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) Variances 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 SRPA 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 463-46-170 and 463-46-180.

(21) Non-actions. Proposals for activities which are not "actions" as defined in WAC 463-46-040(2) are not subject to the threshold determination and EIS requirements of this chapter.

NEW SECTION

WAC 12-10-181 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.

NEW SECTION

WAC 12-10-190 USE AND EFFECT OF CATEGORICAL EXEMPTIONS. (1) Those activities excluded from the definition of "action" in WAC 12-10-040(2), or categorically exempted by WAC 12-10-170, 12-10-175, and 12-10-180, 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 12-10-055. 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.

NEW SECTION

WAC 12-10-200 LEAD AGENCY--RESPONSIBILITIES. The lead agency shall be the only agency responsible for complying with the threshold determination procedures of WAC 12-10-300 through 12-10-390; and the lead agency shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 12-10-400 through 12-10-495, 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 12-10-550 through 12-10-695.

NEW SECTION

WAC 12-10-203 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 12-10-205 through 12-10-245.

(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 12-10-260.

(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 12-10-300 through 12-10-390. 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 12-10-260.

(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).

NEW SECTION

WAC 12-10-205 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.

NEW SECTION

WAC 12-10-210 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 12-10-205.

NEW SECTION

WAC 12-10-215 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.

NEW SECTION

WAC 12-10-230 LEAD AGENCY DESIGNATION--SPECIFIC PROPOSALS. Notwithstanding the lead agency designation criteria contained in WAC 12-10-205 through 12-10-225, 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 section 402 of the Federal Water Pollution Control Act (33 U.S.C. section 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.

NEW SECTION

WAC 12-10-240 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.

NEW SECTION

WAC 12-10-245 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.

NEW SECTION

WAC 12-10-260 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.

NEW SECTION

WAC 12-10-270 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 12-10-345, the lead agency responsibilities regarding threshold determination procedures (WAC 12-10-300 through 12-10-390) transfer to the new lead agency.

NEW SECTION

WAC 12-10-300 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 12-10-245 and 12-10-345, 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 12-10-305 through 12-10-390 may be disregarded.

NEW SECTION

WAC 12-10-305 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.

NEW SECTION

WAC 12-10-310 THRESHOLD DETERMINATION PROCEDURES--ENVIRONMENTAL CHECKLIST. (1) An environmental checklist substantially in the form provided in WAC 12-10-365 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 12-10-170, 12-10-175 and 12-10-180.

NEW SECTION

WAC 12-10-320 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 12-10-060 and 12-10-360 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 12-10-340; 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 12-10-350 and 12-10-400 through 12-10-695; 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 12-10-330.

NEW SECTION

WAC 12-10-330 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 12-10-500 through 12-10-540.

(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 12-10-360 and 12-10-365. 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.

NEW SECTION

WAC 12-10-340 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 12-10-355.

(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 12-10-170(1)(n) or 12-10-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 12-10-170, 12-10-175 or 12-10-180.

(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 12-10-330(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 12-10-345.

NEW SECTION

WAC 12-10-345 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 12-10-200 through 12-10-260, 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 12-10-340.

(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.

NEW SECTION

WAC 12-10-350 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 12-10-355 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 12-10-400 through 12-10-695.

(2) After the additional information gathering mechanisms of WAC 12-10-330 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.

NEW SECTION

WAC 12-10-355 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 12-10-330, 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.....
 Proporent.....
 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.

NEW SECTION

WAC 12-10-360 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 12-10-060], 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 12-10-330, 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 12-10-330]. It is expected, however, that many proposals can be evaluated entirely through an office review [See WAC 12-10-320] 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.

NEW SECTION

WAC 12-10-365 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 12-10-360 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:

ENVIRONMENTAL CHECKLIST

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)

| | Yes | Maybe | No |
|--|-----|-------|-----|
| (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?

Yes Maybe No

--- --- ---

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:
.....

(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:
.....

Yes Maybe No

(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:

Yes Maybe No

(9) Natural Resources. 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) Risk of Upset. 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) Population. Will the proposal alter the location, distribution, density, or growth rate of the human population of an area? --- --- ---

Explanation:

(12) Housing. Will the proposal affect existing housing, or create a demand for additional housing? --- --- ---

Explanation:

(13) Transportation/Circulation. 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:

Yes Maybe No

(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:

(17) Human Health. Will the proposal result in the creation of any health hazard or potential health hazard (excluding mental health)? --- --- ---

Explanation:

(18) Aesthetics. 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? Yes Maybe No

Explanation:

(19) Recreation. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities? --- --- ---

Explanation:

(20) Archeological/Historical. Will the proposal result in an alteration of a significant archeological or historical site, structure, object or building? --- --- ---

Explanation:

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:.....

NEW SECTION

WAC 12-10-370 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.

NEW SECTION

WAC 12-10-375 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 12-10-300 through 12-10-360.

(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.

NEW SECTION

WAC 12-10-390 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 12-10-345. As a result of compliance with WAC 12-10-345, 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.

NEW SECTION

WAC 12-10-400 DUTY TO BEGIN PREPARATION OF A DRAFT EIS. After compliance with WAC 12-10-350, 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 12-10-410 through 12-10-695.

NEW SECTION

WAC 12-10-405 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.

NEW SECTION

WAC 12-10-410 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 12-10-310, as reviewed pursuant to WAC 12-10-320.
- (c) Any information in addition to the checklist resulting from application of WAC 12-10-330.
- (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 12-10-500 through 12-10-540.

(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.

NEW SECTION

WAC 12-10-420 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 chapter 42.17 RCW [Public Disclosure and Public Records Law; Initiative 276, 1973].

(4) Private applicants shall be encouraged to participate in the preparation of the EIS; however, the final authority over content shall be that of the responsible official. The Commission 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 12-10-840].

(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.

NEW SECTION

WAC 12-10-425 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 12-10-440. 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 12-10-440(1) through 12-10-440(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 12-10-440(7) through 12-10-440(14): PROVIDED, That

all of the subject matters required by WAC 12-10-440 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.

NEW SECTION

WAC 12-10-440 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 chapter 42.17 RCW.

(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 12-10-460].

(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 12-10-444.

(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 12-10-444, 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 12-10-444 (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 12-10-444, 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 12-10-446.]

NEW SECTION

WAC 12-10-442 SPECIAL CONSIDERATIONS REGARDING CONTENTS OF AN EIS ON A NON-PROJECT ACTION. (1) The requirements of WAC 12-10-440 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 12-10-440 in writing and 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."

NEW SECTION

WAC 12-10-444 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.

NEW SECTION

WAC 12-10-453 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.

NEW SECTION

WAC 12-10-455 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.

NEW SECTION

WAC 12-10-460 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 12-10-040 and 12-10-465 (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 12-10-040, 12-10-465, 12-10-510 and 12-10-520 for those provisions that define a consulted agency.]

NEW SECTION

WAC 12-10-465 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).

NEW SECTION

WAC 12-10-472 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.

NEW SECTION

WAC 12-10-480 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.

NEW SECTION

WAC 12-10-485 NOTICE OF PUBLIC HEARING ON ENVIRONMENTAL IMPACT OF THE PROPOSAL. (1) Notice of all public hearings to be held pursuant to WAC 12-10-480(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.

NEW SECTION

WAC 12-10-490 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.

NEW SECTION

WAC 12-10-495 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 12-10-450 through 12-10-490 for the amended or new draft EIS.

NEW SECTION

WAC 12-10-500 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.

NEW SECTION

WAC 12-10-510 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.

NEW SECTION

WAC 12-10-520 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 12-10-465], 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 12-10-440 or 12-10-442.

NEW SECTION

WAC 12-10-530 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 12-10-410, 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).

NEW SECTION

WAC 12-10-535 COST OF PERFORMANCE OF CONSULTED AGENCY RESPONSIBILITIES. A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 12-10-500 through 12-10-540, 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.

NEW SECTION

WAC 12-10-540 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 environmental 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.

NEW SECTION

WAC 12-10-545 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 12-10-400 through 12-10-495, or with the contents of the final EIS.

NEW SECTION

WAC 12-10-550 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.

NEW SECTION

WAC 12-10-570 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 12-10-600.

(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.

NEW SECTION

WAC 12-10-580 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 12-10-600; 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 12-10-600. 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.

NEW SECTION

WAC 12-10-600 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.

NEW SECTION

WAC 12-10-650 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 U.S.C. § 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 12-10-444, 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.

NEW SECTION

WAC 12-10-652 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 12-10-650(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.

NEW SECTION

WAC 12-10-660 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 12-10-400 through 12-10-695. 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 12-10-480 through 12-10-490, 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.

NEW SECTION

WAC 12-10-690 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 12-10-440(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.

NEW SECTION

WAC 12-10-695 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 12-10-450. 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 12-10-550 through 12-10-580 and the final supplemental EIS, together with the earlier EIS, shall be regarded as a final EIS for all purposes of these guidelines.

NEW SECTION

WAC 12-10-700 NO ACTION FOR SEVEN DAYS AFTER PUBLICATION OF THE FINAL EIS. No agency shall take any major action (as defined in WAC 12-10-040(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.

NEW SECTION

WAC 12-12-710 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 12-10-660, shall accompany a proposal through the existing review processes.

NEW SECTION

WAC 12-10-800 SEPA PUBLIC INFORMATION CENTER. (1) The SEPA public information center for the Commission shall be located at its

offices at King County International Airport, 8600 Perimeter Road, Seattle, Washington 98108.

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

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

(b) Copies of all EISS prepared by the Commission, 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 Commission 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 on 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 Commission 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 Commission 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. The Commission 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. The Commission may charge for copies in the manner provided by chapter 42.17 RCW, and for the cost of mailing.

NEW SECTION

WAC 12-10-810 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.

NEW SECTION

WAC 12-10-820 RESPONSIBILITY OF AGENCIES--PROCEDURES WHEN CONSULTED AGENCY. The Commission 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 12-10-500 through 12-10-540. Insofar as these procedures be integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency.

NEW SECTION

WAC 12-10-830 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.

NEW SECTION

WAC 12-10-840 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 12-10-535, these guidelines neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance.

NEW SECTION

WAC 12-10-900 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.