

Chapter 16-236 WAC

SEPA PROCEDURES

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WAC 16-236-010 Authority. These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-010, filed 11/30/84.]

WAC 16-236-020 Adoption by reference. The department of agriculture adopts the following sections of chapter 197-11 WAC by reference:

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[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-020, filed 11/30/84.]

WAC 16-236-030 Purpose. (1) This chapter implements the statewide rules in chapter 197-11 WAC as they apply to the department of agriculture.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the department to use all practical means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

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

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

(c) Attain the 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 department 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.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-030, filed 11/30/84.]

WAC 16-236-040 Additional definition. "Department" means department of agriculture unless otherwise indicated.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-040, filed 11/30/84.]

WAC 16-236-050 Designation of responsible official. Within the department of agriculture the ultimate responsible official is the director. The responsible official for a specific proposal shall be the assistant to the director in charge of environmental affairs or his/her designee.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-050, filed 11/30/84.]

(11/30/84)

WAC 16-236-060 EIS preparation. (1) Preparation of draft and final EISs and SEISs is the responsibility of the assistant to the director in charge of environmental affairs or his/her designee. The responsible official shall be satisfied that all EISs and SEISs issued by the department are in compliance with these rules and chapter 197-11 WAC.

(2) Any draft or final EIS or SEIS shall be prepared by the department, the applicant, or by a consultant mutually agreed upon by the department and applicant.

(3) Whenever someone other than the department prepares a draft or final EIS or SEIS, the responsible official shall:

(a) Coordinate scoping to ensure that the individual preparing the document receives all substantive information submitted by any agency or person.

(b) Direct the areas of research and study to be undertaken and the content and organization of the document.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the document.

(d) Allow the person preparing the document access to department records relating to the document, as prescribed in chapter 16-06 WAC, Public records.

(4) Nothing herein shall be construed to prohibit the department from charging any fee of an applicant that the department is otherwise authorized to charge (see WAC 197-11-914). A performance bond in amount specified by the department may be required of the applicant to ensure payment of department expenses in preparing, in whole or in part, a draft or final EIS or SEIS.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-060, filed 11/30/84.]

WAC 16-236-070 Environmentally sensitive areas. During threshold determination and in determining whether a proposal is exempt from SEPA, the department shall give all due consideration to "environmentally sensitive area" designations made by local governments under WAC 197-11-908.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-070, filed 11/30/84.]

WAC 16-236-080 Threshold levels adopted by local governments. During threshold determination and in determining whether a proposal is exempt from SEPA, the department shall respect threshold levels adopted by local governments under WAC 197-11-800.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-080, filed 11/30/84.]

WAC 16-236-090 Coordination of combined state-federal action. When the department considers actions which also involve federal actions, it shall coordinate the two governmental processes so that only one EIS, or other environmental document, need be prepared for that proposal.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-090, filed 11/30/84.]

WAC 16-236-100 Public notice requirements. (1) When these rules require notice of environmental document preparation or availability, as a lead agency and taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice

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requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation, the department shall give public notice by using at least one of the following methods:

- (a) Posting the property, for site-specific proposals;
 - (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
 - (c) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - (d) Notifying the news media; and/or
 - (e) Publishing notice in a department newsletter.
- (2) Whenever possible, the department shall integrate these public notice requirements with existing notice procedures for any department permits or approvals required for the proposal.
- (3) The department may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-100, filed 11/30/84.]

WAC 16-236-110 Notice/statute of limitations. (1)

The department, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080.

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

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-110, filed 11/30/84.]

WAC 16-236-120 Policies and procedures for conditioning or denying permits or other approvals. (1) The policies and goals in this section are supplementary to existing authorities of the department.

(2) It is the policy of the department to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(3) The department shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision-making along with economic and technical considerations.

(4) When the environmental document for a proposal shows it will cause significant adverse impacts, the responsible official shall consider whether:

- (a) The environmental document identified mitigation measures that are reasonable and capable of being accomplished;
- (b) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and
- (c) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(5) When the environmental document for a proposal shows it will cause significant adverse impacts, the responsible official may:

- (a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished

and the proposal is consistent with the policies in this section; or

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in this section.

(6) The procedures in WAC 197-11-660 shall also be followed when conditioning or denying permits or other approvals.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-120, filed 11/30/84.]

WAC 16-236-130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-24-033 (Order 1843), § 16-236-130, filed 11/30/84.]