



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Washington State Convention & Trade Center (WSCTC)

- Permanent Rule**
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: These rules update WSCTC's SEPA rules, clarify when WSCTC will serve as the lead agency, specify certain emergency actions as categorically exempt and adopt the City of Seattle's flexible thresholds for categorical exemptions.

Citation of existing rules affected by this order:

Repealed: WAC 140-09-058, 140-09-080, 140-09-090, 140-09-100, 140-09-120, 140-09-200.
 Amended: WAC 140-09-010, 140-09-020, 140-09-040, 140-09-050, 140-09-065, 140-09-110, 140-09-128, 140-09-130, 140-09-140, 140-09-150, 140-09-155, 140-09-175, 140-09-180, 140-09-185, 140-09-230.

Statutory authority for adoption: RCW 43.21C.120

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 08-07-068 on March 17, 2008.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: May 20, 2008

NAME (TYPE OR PRINT)

John Christison

SIGNATURE

TITLE

President & General Manager

CODE REVISER USE ONLY

OFFICE OF THE
STATE CODE REVISOR

JUN 6 2008

3:50

08-13-015

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

WAC	
197-11-040	Definitions.
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.
197-11-060	Content of environmental review.
197-11-070	Limitations on actions during SEPA process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.
197-11-100	Information required of applicants.
<u>197-11-250</u>	<u>SEPA/Model Toxics Control Act integration</u>
<u>197-11-253</u>	<u>SEPA lead agency for MTCA actions.</u>
<u>197-11-256</u>	<u>Preliminary evaluation.</u>
<u>197-11-259</u>	<u>Determination of nonsignificance for MTCA remedial action.</u>
<u>197-11-262</u>	<u>Determination of significance and EIS for MTCA remedial actions.</u>
<u>197-11-265</u>	<u>Early scoping for MTCA remedial actions.</u>
<u>197-11-268</u>	<u>MTCA interim actions.</u>

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-040 Designation of responsible official. (1) For those proposals for which the corporation is the lead agency, the responsible official shall be the ~~((administrator))~~ president of the Washington state convention and trade center.

(2) For all proposals for which the corporation is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 140-09-020.

~~(((3) The corporation shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.))~~

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-050 Lead agency determination and responsibilities. (1) The corporation receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940.

(2) ~~((When the corporation is the lead agency for a proposal, it shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.))~~ The corporation shall serve as the lead agency for all proposals by the corporation. When the total proposal will involve both private and corporation construction activity, it shall be characterized as either a private or a corporation project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is the corporation or a private party. Any project in which corporation and private interests are too intertwined to make this characterization shall be considered a corporation project.

(3) When the corporation is not the lead agency for a proposal, the corporation shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The corporation shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the corporation may conduct supplemental environmental review under WAC 197-11-600.

(4) If the corporation receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the corporation must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the corporation may be initiated by the ~~((administrator))~~ president of the Washington state convention and trade center.

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

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

(7) When the corporation is the lead agency for a MTCA remedial action, the department of ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the

corporation shall decide jointly with ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

- WAC
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

- WAC
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping. (Optional)
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.
- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.

- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-455 Issuance of DEIS.
- 197-11-460 Issuance of FEIS.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- ~~((197-11-504 Availability and cost of environmental documents.))~~
- 197-11-508 SEPA register.
- 197-11-510 Public notice.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.

NEW SECTION

140-09-129 Availability and cost of environmental documents. (1) SEPA documents required by the SEPA rules shall be retained by the corporation and made available in accordance with chapter 42.56 RCW.

(2) The corporation shall make copies of any environmental document available in accordance with chapter 42.56 RCW, charging only those costs allowed plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these rules.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-130 Public notice. (1) Whenever the ~~((corporation issues a DNS))~~ SEPA rules require notice to be given under WAC ~~((197-11-340(2) or a DS under WAC 197-11-360(3)))~~ 197-11-510, the corporation shall give public notice as follows:

~~((a) If public notice is required for a nonexempt license under a statute other than SEPA, the notice shall state whether a DS or DNS has been issued and when comments are due.~~

~~((b) If no public notice is required for the nonexempt license under a statute other than SEPA, the corporation shall give notice of the DNS or DS by at least one of the following:~~

- ~~—(i) Posting the property, for site-specific proposals;~~
- ~~—(ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;~~
- ~~—(iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;~~
- ~~—(iv) Notifying the news media;~~
- ~~—(v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or~~
- ~~—(vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas);~~
- ~~—(c) Whenever the corporation issues a DS under WAC 197-11-360(3), the corporation shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.~~

~~—(2) Whenever the corporation issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license; and at least one of the following:))~~

~~(a) Posting the property, for site-specific proposals; and~~

~~(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located((;)) (e.g., The Seattle Times or the Seattle Post-Intelligencer).~~

~~((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;~~

~~—(e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or~~

~~—(f) Publishing notices in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas);~~

~~—(3)))(2) Whenever possible, the corporation shall integrate the public notice required under this section with existing notice procedures for the corporation's nonexempt licenses required for the proposal.~~

~~((4)))(3) The corporation may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.~~

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-140 Designation of official to perform consulted agency responsibilities for the corporation. ~~((1) The administrator of the Washington state convention and trade center shall be responsible for preparation of written comments for the corporation in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.~~

~~—(2) The responsible official shall be responsible for the corporation's compliance with WAC 197-11-550 whenever the corporation is a consulted agency and is authorized, but not required, to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the corporation.)~~

The president of the corporation, or his or her designee, shall be responsible for coordinating, receiving, and reviewing comments and requests for information from agencies regarding threshold determinations, scoping, EIS's, and supplemental EIS's.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

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

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

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

- WAC
- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.

- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.

NEW SECTION

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

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-175 Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference, as supplemented by WAC ((140-09-040)) 140-09-030:

WAC

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-721 Closed record appeal.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decision maker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- ~~((197-11-748 Environmentally sensitive area.))~~
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Lands covered by water.

197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
<u>197-11-775</u>	<u>Open record hearing.</u>
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-180 Adoption by reference. The corporation adopts by reference the following rules for categorical exemptions(~~(, as supplemented in this))~~ from chapter 197-11 of the Washington Administrative Code:

WAC	
<u>197-11-800</u>	<u>Categorical exemptions.</u>
<u>197-11-810</u>	<u>Exemptions and nonexemptions applicable to specific state agencies.</u>
<u>197-11-820</u>	<u>Department of licensing.</u>
<u>197-11-825</u>	<u>Department of labor and industries.</u>
<u>197-11-830</u>	<u>Department of natural resources.</u>
<u>197-11-835</u>	<u>Department of fisheries.</u>
<u>197-11-840</u>	<u>Department of game.</u>
<u>197-11-845</u>	<u>Department of social and health services.</u>
<u>197-11-850</u>	<u>Department of agriculture.</u>
<u>197-11-855</u>	<u>Department of ecology.</u>
<u>197-11-860</u>	<u>Department of transportation.</u>
<u>197-11-865</u>	<u>Utilities and transportation commission.</u>
<u>197-11-870</u>	<u>Department of commerce and economic development.</u>
<u>197-11-875</u>	<u>Other agencies.</u>

- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

NEW SECTION

140-09-182 Corporation Compliance with Flexible Thresholds. The corporation will use the flexible thresholds established by the City of Seattle.

NEW SECTION

140-09-183 Emergencies. Actions that must be undertaken immediately or within a time too short to allow full compliance with these rules, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this chapter. Such actions include, but are not limited to, the following:

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

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-185 Purpose of this part and adoption by reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, listing agencies with environmental expertise, selecting the lead agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference(~~, as supplemented by WAC 140-09-050 and 140-09-053 and this part~~):

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-904 Agency SEPA procedures.
- 197-11-906 Content and consistency of agency procedures.
- 197-11-910 Designation of responsible official.
- 197-11-912 Procedures of consulted agencies.
- 197-11-914 SEPA fees and costs.
- 197-11-916 Application to ongoing actions.

- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-950 Severability.
- 197-11-955 Effective date.

AMENDATORY SECTION (Amending WSR 85-03-004, filed 1/3/85)

140-09-230 Adoption by reference. The corporation adopts the following forms and sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

REPEALER

The following sections of chapter 140-09 of the Washington Administrative Code are repealed:

- WAC 140-09-058 Additional timing considerations.
- WAC 140-09-080 Use of exemptions.
- WAC 140-09-090 Environmental checklist.
- WAC 140-09-100 Mitigated DNS.
- WAC 140-09-120 Preparation of EIS—Additional considerations.
- WAC 140-09-200 Fees.