

TRANSMITTAL OF RULES ADOPTED

FROM: WASHINGTON STATE ENERGY OFFICE  
(Name of Agency)

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

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

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

The establishment of guidelines interpreting and implementing the Washington State Environmental Policy Act of 1971 (SEPA) as it relates to the Washington State Energy Office and to implement the guidelines of the Council on Environmental Policy.

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

pursuant to Notice No. 7307 ① filed with the code reviser on 12/13/76 ② were regularly adopted as permanent rules of (date) Washington State Energy Office this agency at 1000 Cherry, Olympia on 1/5/77 and are herewith (place) Washington (date) filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be 1/5/77. 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 (place) (date) 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 eighteenth day of January 1977.

STATE OF WASHINGTON  
**FILED**  
JAN 18 1977

WASHINGTON STATE ENERGY OFFICE  
(AGENCY)  
Kevin M. Ryan  
By Kevin M. Ryan  
Assistant Attorney General  
Title

# CODE REVISER'S OFFICE  
DOCKET # 7936 FILE # 1

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.

NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES

(Instructions for completion on back of page)  
(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 43.21C.120 (1) that the Washington State Energy Office intends to  
(name of agency)

adopt, amend, or repeal rules concerning: (2) the establishment of guidelines interpreting and implementing the Washington State Environmental Policy Act of 1971 (SEPA) as it relates to the Washington State Energy Office and to implement the guidelines of the Council on Environmental Policy.

(2) (Use only if hearing is to be held)  
that such agency will at \_\_\_\_\_ (time) \_\_\_\_\_ (day) \_\_\_\_\_ (date) (3)  
in the \_\_\_\_\_ (place)  
\_\_\_\_\_ conduct a public hearing relative thereto;

HEARING  
DATE & PLACE

(3) and that the adoption, amendment, or repeal of such rules will take place at 10:15 a.m., Wednesday, January 5, 1977,  
(time) (day) (date) (4)  
in the Conference Room, Washington State Energy Office, 1000 S. Cherry.  
(place)

(4) The authority under which these rules are proposed is:  
RCW 43.21C.120

(5) Interested persons may submit data, views, or arguments to this agency --  
(a)  in writing to be received by this agency prior to January 5, 1977.  
and/or (date)  
(b)  orally at 10:15 am, Wednesday, January 5, 1977,  
(time) (day) (date) (3)  
Conference Room, Washington State Energy Office, 1000 Cherry Street.  
(place)

(6) The additional notice required by RCW 34.04.025 has been made by mailing copies of this notice to all persons who have made timely request of this agency for advance notice of its rule-making proceedings.

(7) This notice is connected to and continues the matter noticed in Notice Nos. \_\_\_\_\_ filed with the reviser's office on \_\_\_\_\_ (date) (5) .

Keith Sherman

WASHINGTON STATE ENERGY OFFICE  
(AGENCY)

Dated: Jan. 5, 1977

By: KEVIN M. RYAN

Assistant Attorney General  
(TITLE)

STATE OF WASHINGTON  
**FILED**  
DEC 13 1976  
CODE REVISER'S OFFICE  
DOCKET # \_\_\_\_\_ FILE # \_\_\_\_\_  
NOTICE # 7307  
(Do not write in this space)

N.B. These proceedings may require additional notice pursuant to the Open Public Meetings Act of 1971; consult Chapter 42.30 RCW.

WAC 194-12-010 AUTHORITY. This chapter is promulgated pursuant to the authority granted in RCW 43.21C.120, requiring each state agency to adopt rules implementing the State Environmental Policy Act.

WAC 194-12-020 PURPOSE. The purpose of this chapter is to:

- (1) Establish guidelines interpreting and implementing the State Environmental Policy Act of 1971 (SEPA) as applicable to the Washington State Energy Office, and
- (2) Incorporate guidelines established by the Council on Environmental Policy into the rules and regulations of the Washington State Energy Office.

WAC 194-12-030 SCOPE AND COVERAGE. It is the intent of the Washington State Energy Office that compliance with the guidelines of this chapter and with WAC 197-10 shall constitute complete procedural compliance with SEPA for any action. These agency guidelines supplement and elaborate portions of the SEPA guidelines but do not themselves provide a comprehensive description of the SEPA requirements to which actions of the Washington State Energy Office are subject. When questions concerning SEPA requirements arise, reference should be made first to the SEPA guidelines and then to this chapter.

WAC 194-12-040 INCORPORATION BY REFERENCE. All activities and functions of the Washington State Energy Office shall be carried out in compliance with the requirements of the State Environmental Policy Act and the SEPA guidelines, and to this end all provisions of the SEPA guidelines, unless clearly designated as optional or unless modified by this chapter, are hereby incorporated into these agency guidelines.

WAC 194-12-050 DEFINITIONS. The following words and terms have the following meanings for the purposes of this chapter, unless otherwise indicated:

(1) Action. An activity potentially subject to the environmental impact statement requirements of RCW 43.21C.030(2)(c) and (2)(d). 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 contact 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.

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

(3) Agencies with Jurisdiction. 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.

(4) Agency. All state agencies and local agencies are defined in this section. The term does not include any agency or division of the federal government.

(5) Declaration of Non-Significance. 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 similar to WAC 197-10-355 shall be used for this declaration.

(6) Declaration of Significance. 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 similar to WAC 197-10-355 shall be used for this declaration.

(7) Director. The Director of the Washington State Energy Office.

(8) Draft EIS. An environmental impact statement prepared prior to the final detailed statement.

(9) EIS. 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.

(10) Environmental Checklist. The form contained in WAC 197-10-365.

(11) Final EIS. An environmental impact statement prepared to reflect comments to the draft EIS. It may consist of a new

document, or of the draft EIS together with supplementary material prepared pursuant to WAC 197-10-570, -580, or -695.

(12) Lead Agency. The agency designated by the provisions of WAC 197-10-200 through -370 or -345, which is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(13) Local Agency. 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.

(14) Office. The Washington State Energy Office, and where appropriate, the staff of the Washington State Energy Office.

(15) Private Applicant. Any person or entity, other than an agency as defined in this section, applying for a license from an agency.

(16) Proposal. 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 or any such request.

(17) Responsible Official. That officer or officers, committee, department or section of the lead agency designated to undertake its responsibilities as lead agency.

(18) SEPA. State Environmental Policy Act of 1971, RCW 43.21C, as amended.

(19) SEPA Guidelines. Chapter 197-10 WAC.

(20) State Agency. 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.

(21) Threshold Determination. The decision by a lead agency whether or not an environmental impact statement is required for a proposal.

WAC 194-12-060 EXEMPTIONS. In addition to those exemptions identified by WAC 197-10-170, any action taken pursuant to a declaration of an "energy supply alert" as defined in chapter 108, Laws of 1975-1976, 2nd ex. sess., and an "energy emergency" as defined in RCW 43.06.200, shall be exempt from the procedural requirements of this chapter.

WAC 194-12-070 DESIGNATION OF RESPONSIBLE OFFICIAL. The ultimately responsible official is the Director of the State Energy Office. Normally, the operational responsibility shall be delegated by the Director to the Deputy Director, who may delegate duties and functions assigned under this chapter.

WAC 194-12-080 DESIGNATION OF PUBLIC INFORMATION CENTER.

(1) The SEPA Public Information Center shall be located at the Washington State Energy Office, 1000 S. Cherry Street, Olympia, Washington 98504.

(2) The following documents shall be maintained at the SEPA Public Information Center:

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

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

(3) In addition, the Office 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 data first listed on the register, and a contact person from whom further information may be obtained:

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

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

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

(4) Each of the registers required by subsection (3) 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 have been placed on the registers since the last request, in which event a copy of the register or update shall be mailed when a new proposal is added. The Office 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 shall be provided upon written request. The Office may charge for copies in the manner provided by chapter 42.17, RCW, and for the cost of mailing.

WAC 194-12-090 CONSULTATION REQUEST GUIDELINES. All consultation requests from state agencies or private applicants will be referred to the responsible official.

(1) If the Office is an agency with jurisdiction, the Office will, under the direction of the responsible official or his designee, conduct research and field investigations which would normally be required and will research impacts of the proposal which bring it within the jurisdiction of the Office.

(2) If the Office is an agency with expertise, the Office will, under the direction of the responsible official or his designee, provide substantive data, information, test results and other relevant material which the Office possesses. At the option of the responsible official, the Office may also investigate, develop and transmit additional information to enable the lead agency to meet its responsibilities under WAC 197-10-440 or 197-10-442.



WAC 194-12-100 INVOLVEMENT OF PRIVATE APPLICANT IN PREPARATION OF EIS. At the option of the Office, a private applicant may be required to prepare all or portions of environmental checklists, draft and final environmental impact statements. Such preparation will take place under the direction of the responsible official by either of the following methods:

(1) Applicant prepares the EIS under the supervision and to the satisfaction of the responsible official, or

(2)(a) Applicant posts a deposit;

(b) The Office retains a mutually agreed upon and independent consultant to prepare the document;

(c) The consultant prepares the document under and to the satisfaction of the responsible official; and

(d) The consultant is paid from the deposit and the balance of the deposit is returned. The applicant will be provided an itemized accounting of the expenditures made.

In addition to or instead of any requirements made by the Office under this section, private applicants shall be encouraged to cooperate in the impact statement preparation process.

WAC 194-12-110 PREPARATION OF EIS BY PERSONS OUTSIDE THE OFFICE. (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.

(2) An EIS may be prepared by a private applicant or agent or by an outside consultant retained by either a private applicant or the lead agency. In such case, the responsible official 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 Office which are relevant to the subject matter of the EIS, pursuant to RCW 42.17.

WAC 194-12-120 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.