

Title 352 WAC

PARKS AND RECREATION COMMISSION

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Appendix A	[Filed 3/24/60.] Repealed by Order 8, filed 6/10/70.
Appendix B	[Filed 1/8/63.] Repealed by Order 8, filed 6/10/70.
Appendix C	[Filed 5/5/67.] Repealed by Order 8, filed 6/10/70.

Chapter 352-04 WAC

POLICY--MEETINGS, DELEGATIONS, AND LAND ACQUISITION

WAC

352-04-010	Duties of chairman and conduct of meetings.
352-04-020	Delegation of authority to director.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

352-04-030	Land acquisition procedure. [Order 7, § 352-04-030, filed 4/1/70.] Repealed by 82-07-078 (Order 58), filed 3/23/82. Statutory Authority: RCW 43.51.040.
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WAC 352-04-010 Duties of chairman and conduct of meetings. (1) The chairman shall call and preside at all regular or special meetings.

(2) The duties of the vice chairman shall be to preside at all regular or special meetings in the absence of the

chairman. In addition, the vice chairman shall serve as chairman upon his resignation, death, or incapacitation for any reason, and shall so serve until the next regular election, or until the chairman is again able to serve, whichever shall first occur.

(3) The secretary shall cause minutes to be taken and recorded of all regular or special meetings, and shall sign such minutes when transcribed and approved by the commission. In addition, the secretary shall succeed to the offices of vice chairman or chairman in the same manner and under the same conditions as set forth above for the vice chairman.

(4) Eight regular meetings shall be held each calendar year, commencing at 9:00 a.m., on the third Thursday of each month in which a meeting is to be held, unless otherwise called by the chairman or a majority of the commissioners. An annual schedule of the months in which meetings are to be held, and their locations, will be adopted by the commission during the last regular meeting of each calendar year, and will be published each January in the Washington State Register, in accordance with RCW 42.30.075.

(5) An annual election shall be conducted for the offices of chairman, vice chairman, and secretary, at the first regular meeting of every year. The election shall be conducted by written ballot.

(6) The order of business at all regular meetings shall be:

- (a) The call of the roll.
- (b) Minutes of the previous meeting.
- (c) Acceptance of agenda.
- (d) Business of the day.
- (e) Date and location of next meeting.
- (f) Adjournment.

(7) The chairman shall be a voting member of the commission. A majority of the authorized commission membership shall constitute a quorum for the transaction of business at all regular and special meetings. A majority vote of the commissioners present shall be sufficient to pass or defeat each measure brought to a vote, unless otherwise required by law. When a unanimous vote of the authorized membership of the commission is required by law to pass any measure brought to a vote, the vote of any absent commissioner may be registered by mail, or by telephone: *Provided*, That any mailed ballot shall be opened and read, or any telephoned vote shall be communicated during the meeting at which such measure is being considered: *And provided further*, That the chairman shall identify the absent commissioner or commissioners so voting, and that such identification shall be incorporated into the minutes of the meeting.

[Statutory Authority: RCW 42.30.070. 83-01-113 (Order 64), § 352-04-010, filed 12/21/82. Statutory Authority: RCW 43.51.060 and 42.30.070. 82-07-077 (Order 57), § 352-04-010, filed 3/23/82. Statutory Authority: RCW 43.51.030. 80-14-010 (Order 47), § 352-04-010, filed 9/22/80; Order 12, § 352-04-010, filed 1/28/72; Order 7, § 352-04-010, filed 4/1/70.]

WAC 352-04-020 Delegation of authority to director. (1) Any delegation of authority by the commission under section 2, chapter 31, Laws of 1969, shall be accomplished at a regular or special meeting of the commission, and shall be incorporated in the minutes thereof.

(2) The director may appoint, suspend, and dismiss employees of the agency. [Order 7, § 352-04-020, filed 4/1/70.]

Chapter 352-10 WAC GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC

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WAC 352-10-010 Authority. This chapter is promulgated pursuant to RCW 43.21C.120. The adoption of guidelines by the Washington state parks and recreation commission shall not be an "action" as defined in WAC 352-10-040(2). [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-010, filed 6/15/78; Order 20, § 352-10-010, filed 5/27/76.]

WAC 352-10-020 Purpose. (1) The purpose of this chapter is to establish state-wide guidelines interpreting and implementing the State Environmental Policy Act of 1971 (SEPA) for the Washington state parks and recreation commission, hereinafter referred to as the commission.

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

(3) These guidelines do not govern compliance by the commission with respect to the National Environmental Policy Act of 1969 (NEPA). When the commission is required by federal law or regulations to perform some element of compliance with NEPA, such agency compliance will be governed by the applicable federal statute and regulations and not by these guidelines. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-020, filed 6/15/78; Order 20, § 352-10-020, filed 5/27/76.]

WAC 352-10-025 Scope and coverage of this chapter. (1) Compliance with the guidelines of this chapter shall constitute complete procedural compliance by the commission with SEPA for any "action" as defined in WAC 352-10-040(2).

(2) The guidelines of this chapter do not cover the notice/statute of limitations provisions of RCW 43.21C-.080, 43.21C.085 and 43.21C.087. To utilize these provisions, the commission shall follow the statutory language. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-025, filed 6/15/78; Order 20, § 352-10-025, filed 5/27/76.]

WAC 352-10-030 Integration of SEPA procedures with other governmental operations. To the fullest extent possible, the procedures required by these guidelines shall be integrated with existing planning and licensing procedures utilized by the commission with other governmental agencies in the state. These procedures should be initiated early, and undertaken in conjunction with

other governmental operations to avoid lengthy time delays and unnecessary duplication of effort. [Order 20, § 352-10-030, filed 5/27/76.]

WAC 352-10-040 Definitions. The following words and terms have the following meanings for the purposes of this chapter, unless the context indicates otherwise:

(1) Acting agency means an agency with jurisdiction which has received an application for a license, or which is proposing an action.

(2) Action means an activity potentially subject to the environmental impact statement requirements of RCW 43.21C.030 (2)(c) and (2)(d). (See WAC 352-10-170 and 352-10-180 for activities that are exempted from the threshold determination and environmental impact statement requirements of SEPA and these guidelines.) All actions fall within one of the following subcategories:

(a) Governmental licensing of activities involving modification of the physical environment.

(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 the environment is directly modified.

(c) Governmental action of a nonproject 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;

(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) Agency with expertise means an agency listed in WAC 352-10-465, unless it is also an agency with jurisdiction.

(4) Agency with jurisdiction means an agency from which a nonexempt license is required for a proposal or any part thereof, which will act upon an application for a grant or loan for a proposal, or which proposes or initiates any governmental action of a project or nonproject nature. The term does not include an agency authorized to adopt rules or standards of general applicability which govern the proposal in question, when no license or approval is required for a specific proposal. The term also does not include an agency, involved in approving a

grant or loan, which serves only as a conduit between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are agencies 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 means 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 the successor agency.

(6) Authorized public use shall not be construed to have occurred unless the particular parcel of real property in question has developed facilities which have been subject to public use and/or has been specifically designated and classified for such public use without developed facilities.

(7) Commission means the Washington state parks and recreation commission.

(8) CEP means the council on environmental policy. As directed by the legislature, the council on environmental policy ceased to exist on July 1, 1976, and its duties were transferred to the department of ecology (DOE). All reference to CEP in these guidelines should now be read to mean department of ecology.

(9) Consulted agency means any agency with jurisdiction or with expertise which is requested by the lead agency to provide information during a threshold determination or predraft consultation or which receives a draft environmental impact statement. An agency shall not be considered to be a consulted agency merely because it receives a proposed declaration of nonsignificance.

(10) County/city means a county, city or town. In this chapter, duties and powers are assigned to a county, city or town as a unit. The delegation of responsibilities among the various departments of a county, city or town is left to the legislative or charter authority of the individual counties, cities or towns.

(11) Declaration of nonsignificance 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. The form provided in WAC 352-10-355 shall be used for this declaration.

(12) 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. The form in WAC 352-10-355 shall be used for this declaration.

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

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

(15) Environment means, and is limited to, those areas listed in WAC 352-10-444.

(16) Environmental checklist means the form contained in WAC 352-10-365.

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

(18) Environmentally sensitive area means an area designated and mapped by a county/city pursuant to WAC 352-10-177. Certain categorical exemptions do not apply within environmentally sensitive areas.

(19) Final EIS means an environmental impact statement prepared to reflect comments to the draft EIS. It may be a new document, or the draft EIS supplemented by material prepared pursuant to WAC 352-10-570, 352-10-580 or 352-10-695.

(20) Lands covered by water means lands underlying the water areas of the state below the ordinary high water mark, 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.

(21) Lead agency means the agency designated by WAC 352-10-200 through 352-10-270 or 352-10-345. The lead agency is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(22) 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 includes all or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular project. The term does not include a license required solely for revenue purposes.

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

(24) List of elements of the environment means the list in WAC 352-10-444 which must be attached to every environmental impact statement.

(25) 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.

(26) Major action means any "action" as defined in this section which is not exempted by WAC 352-10-170 and 352-10-180.

(27) Nonproject means an environmental impact statement prepared for a proposal for any governmental action of a nonproject nature as defined under "action" in this section.

(28) Physical environment means, and is limited to, those elements of the environment listed under "physical environment" in WAC 352-10-444(2).

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

(30) Private project means any proposal primarily initiated or sponsored by an individual or entity other than an "agency" as defined in this section.

(31) Proposal means a specific request to undertake any activity submitted to, and 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. The scope of a proposal for the purposes of lead agency determination, the threshold determination, and impact statement preparation is further defined in WAC 352-10-060.

(32) Responsible official means that officer or officers, committee, department or section of the lead agency designated by the lead agency's guidelines to undertake its responsibilities as lead agency (see WAC 352-10-820).

(33) SEPA means the State Environmental Policy Act of 1971, chapter 43.21C RCW, as amended.

(34) 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.

(35) Threshold determination means the decision by a lead agency whether or not an environmental impact statement is required for a proposal. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-040, filed 6/15/78; Order 20, § 352-10-040, filed 5/27/76.]

WAC 352-10-050 Use of the environmental checklist form. A form is provided in WAC 352-10-365 for an environmental checklist to be initially completed by an action proponent, whether public or private. This may be done either alone or together with the lead agency, but is usually done 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 and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-050, filed 6/15/78; Order 20, § 352-10-050, filed 5/27/76.]

WAC 352-10-055 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 the commission commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis. All decisions on SEPA applicability and degree or severity of impact will be made on a case by case basis. The lead agency should require completion of the threshold determination and EIS, if required, at the earliest point in the planning and decision-making process

when the principal features of a proposal and its impacts upon the environment can be reliably identified.

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

(3) The maximum time limits contained in these guidelines for the threshold determination and EIS process do not apply to a proposal for a governmental action when the proponent of the action is also the lead agency. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-055, filed 6/15/78; Order 20, § 352-10-055, filed 5/27/76.]

WAC 352-10-060 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) of this section applies. In considering the environmental impacts of a proposal during the threshold determination and EIS preparation, the discussion in subsection (3) of this section applies.

(2) The total proposal is the proposed action, together with all proposed activity 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 or is necessary to operation of the present proposal; 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 parts 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 parts are specific enough 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.

(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 impacts resulting from growth induced by the proposal, or the likelihood that the present action will serve as a precedent for future actions. 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 this development and one or more of the governmental decisions necessary for the proposal in question.

(4) The lead agency may divide proposals involving extensive future actions 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 those future segments. The segmentation allowed by this subsection shall not be used at the threshold determination stage to determine that any segment of a more extensive significant proposal is insignificant; nor shall segmentation be applied 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, and shall not be made merely to divide a larger system into exempted fragments. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-060, filed 6/15/78; Order 20, § 352-10-060, filed 5/27/76.]

WAC 352-10-100 Summary of information which may be required of a private applicant. (1) There are three areas of these guidelines where the commission is allowed to require information from a private applicant. These are:

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

Further information may be required if the responsible official determines that the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may 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 352-10-365 either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. The commission may not require a complete assessment or "mini-EIS" at this stage. (See WAC 352-10-310.)

(3) **Threshold determination.** The lead agency shall make an initial review of a completed checklist without requiring more information from a private applicant. After completing this initial review, 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 352-10-330.)

(4) **Draft and final EIS preparation.** An EIS may be prepared by the applicant under the direction of the responsible official. (See WAC 352-10-420.) 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 predraft 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-100, filed 6/15/78; Order 20, § 352-10-100, filed 5/27/76.]

WAC 352-10-150 Exemptions exclusive--CEP approval of changes in exemptions. (1) The only actions exempt from the threshold determination requirements of this chapter are those which are categorically exempted in WAC 352-10-170 and 352-10-180. Except to specify emergencies as allowed in WAC 352-10-180, the commission shall create additional exemptions in these guidelines only after obtaining approval of CEP or its successor agency in accordance with either subsection (2) or (3) of this section.

(2) The commission may petition CEP, pursuant to RCW 34.04.060, to adopt additional exemptions or to delete existing exemptions through amendments to these guidelines. Such petition shall set forth the language of the amendment requested, the reasons for the requested amendment, the commission's views on the impacts to the environment resulting from the activities covered by the proposed amendment, and the approximate number of actions within any stated time period of the type proposed for exemption or deletion which come before the agency. CEP shall consider and make a determination upon any such petition within thirty days of receipt. If the determination is favorable, CEP will initiate the rule-making procedures of chapter 34.04 RCW, to amend these guidelines. Amendments to these guidelines will apply either generally or to specified classes of agencies. The commission shall amend these guidelines accordingly after the amendments to the CEP guidelines become effective.

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

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

(5) This section shall not be construed to limit the right of any interested person to petition CEP for the

promulgation, amendment or repeal of any rule, including rules establishing categorical exemptions, in accordance with RCW 34.04.060. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-150, filed 6/15/78; Order 20, § 352-10-150, filed 5/27/76.]

WAC 352-10-160 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. [Order 20, § 352-10-160, filed 5/27/76.]

WAC 352-10-170 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 licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or water is required:

(a) The construction or location 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 total 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, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized

purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard-rail and barricade installation, installation of catch basins and culverts, and reconstruction of existing road bed (existing curb to curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrians 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 RCW 76.09.050 or regulations promulgated thereunder, except those Class IV forest practices designated by the forest practices board as being special forest practices and therefore 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 pump-house 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 the commission 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 the commission of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by the commission to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides or chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall 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, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks: *Provided*, That regulation of common carriers by the utilities and transportation

commission shall not be considered exempt under this subsection.

(g) All licenses for food and drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat.

(h) All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure.

(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 the commission.** The following administrative, fiscal and personnel activities of the commission and other agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services 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.

(j) The activities of school districts pursuant to desegregation plans or programs: *Provided*, That construction or real property transactions or the adoption of any policy plan or program for such construction or real property transaction shall not be considered exempt under this subsection.

(8) **Review and comment actions.** Any activity where the responsible official of the commission reviews or comments upon the actions of another agency or another division within the commission shall be exempt.

(9) **Purchase or sale of real property.** The following real property transactions by the commission and other agencies shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use. (See WAC 352-10-040(6).)

(c) The lease of real property 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 the commission of any document or thing required or authorized by law to be filed with the commission and for which the commission 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) **Open burning.** Open burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning 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 section 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 action which commits the commission 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, repair, replacement, maintenance, operation or alteration 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 transportation 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. This exemption shall not apply to the use of chemicals within watersheds which are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of franchises by the commission to utilities.

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

(i) All grants of rights of way by the commission 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 RCW 76.09.050, or regulations promulgated thereunder, except those Class IV forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation.

(b) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land which had been subject to a grazing lease within the previous ten years.

(c) Licenses or approvals to remove firewood.

(d) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(e) Issuance of leases for Christmas tree harvesting or brush picking.

(f) Issuance of leases for school sites.

(g) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(h) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(i) Periodic use of chemical or mechanical means to maintain public park and recreational land: *Provided*, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds which are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

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

(20) **Nonactions.** Proposals for activities which are not "actions" as defined in WAC 352-10-040(2) are not subject to the threshold determination and EIS requirements of this chapter.

(21) **Building codes.** The adoption by ordinance of all codes as required by the State Building Code Act (RCW 19.27.030).

(22) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology pursuant to chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the department of ecology pursuant to RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-170, filed 6/15/78; Order 20, § 352-10-170, filed 5/27/76.]

WAC 352-10-175 Exemptions and nonexemptions applicable to specific state agencies. (1) The exemptions in this section relate only to the specific activities identified within the named agencies. The exemptions of this section are in addition to the general exemptions of WAC 352-10-170 and 352-10-180 which apply to all agencies, including those named in this section, unless the general exemptions are specifically made inapplicable by this section.

(2) Department of licensing. All licenses required under programs administered by the department of licensing as of December 12, 1975 are exempted, except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

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

(b) Motor vehicle wrecker licenses required by chapter 46.80 RCW.

WAC 352-10-170 (5)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

(3) Department of labor and industries. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives pursuant to chapter

70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

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

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

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

(c) Permits to use fuse on forest land.

(d) Log patrol licenses.

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

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

(g) All timber sales.

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

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

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

(b) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a Class I, II, III and IV forest practice as defined in RCW 76.09.050, and regulations adopted thereunder (except those forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation); and hydraulic project approvals for removal of streambed materials where the cost or fair market value of the total project is one thousand dollars or less, and other hydraulic project approvals where the cost of the total proposal is five thousand dollars or less except for proposals involving realignment into a new channel.

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

(d) All other licenses (other than those excepted in (b) and (c) above) authorized to be issued by the department as of December 12, 1975 except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

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

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

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

WAC 352-10-170 (5)(i) shall apply to allow possible exemption of renewals of the above licenses.

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

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

- (b) The issuance of falconry permits.
- (c) The issuance of all hunting or fishing licenses, permits or tags.
- (d) Artificial game feeding.
- (e) The issuance of scientific collector permits.
- (f) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a Class I, II, III or IV forest practice as defined in RCW 76.09.050, and regulations adopted thereunder (except those forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation); and hydraulic project approvals for removal of streambed materials where the cost or fair market value of the total project is one thousand dollars or less, and other hydraulic project approvals where the cost of the total proposal is five thousand dollars or less except for proposals involving realignment into a new channel.
- (7) Department of social and health services. All actions under programs administered by the department of social and health services as of December 12, 1975 are exempted, except the following, which, notwithstanding WAC 352-10-170, shall not be exempt:
 - (a) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material pursuant to RCW 70.98.080: *Provided*, That the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level waste burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities, or their tailings areas, whose products, or by-products, have concentrations of naturally-occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250 shall not be exempt.
 - (b) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units pursuant to WAC 248-54-280.
 - (c) The approval of engineering reports or plans and specifications pursuant to WAC 248-54-590 and 248-54-600, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.
 - (d) The approval of an application for a certificate of need pursuant to RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.
 - (e) The approval of an application for any system of sewerage and/or water general plan or amendments thereto pursuant to RCW 36.94.100.
 - (f) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department pursuant to WAC 248-92-040.
 - (g) The construction of any building, facility or other installation not exempt by WAC 352-10-170 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

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

(8) Department of agriculture. All actions under programs administered by the department of agriculture as of December 12, 1975 are exempted, except for the following, which, notwithstanding the provisions of WAC 352-10-170, shall not be considered exempt:

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

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

(c) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users.

(d) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established pursuant to WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certificate, or an applicator operator license.

(e) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-010 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license.

(f) The approval of any use of the pesticide DDT or DDD.

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

(h) The provisions of WAC 352-10-170 (5)(i) shall apply to allow possible exemption of renewals of the licenses in (a) through (g) above.

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

(a) The issuance, reissuance or modification of any waste discharge permit which contains conditions no less stringent than federal effluent limitations and state rules and regulations. This exemption shall apply to existing discharges only and shall not apply to any new source discharges.

(b) Review of comprehensive solid waste management plans pursuant to RCW 70.95.100 and 70.95.110.

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

(a) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 USC section 402;

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

(c) Establishment and changing of speed limits of fifty-five miles per hour or less;

(d) Revisions of existing access control involving a single property owner;

(e) Issuance of a "motorist information signing permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;

(f) Issuance of permits for special units relative to state highways;

(g) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;

(h) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; and,

(i) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

(11) Utilities and transportation. All actions of the utilities and transportation commission under programs administered as of December 12, 1975 are exempted, except the following, which, notwithstanding WAC 352-10-170, shall not be considered exempt:

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

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

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

(d) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 352-10-170, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

(12) Department of commerce and economic development. The following activities of the department of commerce and economic development shall be exempt:

(a) The provision of business consulting and advisory services which shall include tourist promotion as authorized by RCW 43.31.050.

(b) The promotion and development of foreign trade as authorized by RCW 43.31.370.

(c) The furnishing of technical and information services as authorized by RCW 43.31.060.

(d) The provision of technical assistance to applicants for grants and aid and/or loans and for tax deferrals by the Economic Assistance Authority pursuant to the provisions of chapter 43.31A RCW.

(e) The conduct of research and economic analysis as authorized by RCW 43.31.070 including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under the provisions of RCW 43.31.160, 43.31.200, and 43.31.210.

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

(a) Office of the attorney general.

(b) Office of the auditor.

(c) Department of employment security.

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

(e) Department of personnel.

(f) Department of printing.

(g) Department of revenue.

(h) Office of the secretary of state.

(i) Office of the treasurer.

(j) Arts commission.

(k) Washington state patrol.

(l) Interagency committee for outdoor recreation.

(m) Department of emergency services.

(n) Department of general administration, division of banking and division of savings and loan associations.

(o) Forest practices appeals board.

(p) Public employees' retirement system.

(q) Law enforcement officers' and fire fighters' retirement board.

(r) Volunteer fireman's retirement system board.

(s) State department of retirement systems.

(t) Teachers' retirement system board.

(u) Higher education personnel board.

(v) Commission for vocational education. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-175, filed 6/15/78.]

WAC 352-10-177 Environmentally sensitive areas.

(1) Each county/city may at its option designate areas within its jurisdiction which are environmentally sensitive areas. Environmentally sensitive areas shall be those within which the exemptions listed in subsection (2) hereof could have a significant adverse environmental impact, including, but not limited to, areas with unstable soils, steep slopes, unusual or unique flora or fauna, or areas which lie within flood plains. The location and extent of all environmentally sensitive areas shall be clearly indicated on a map which shall be adopted by reference as part of the SEPA guidelines of the county/city.

(2) Each county/city which adopts and maps environmentally sensitive areas may select certain categorical exemptions which do not apply within various environmentally sensitive areas. The selection of exemptions that will not apply may be made from the following list: WAC 352-10-170 (1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d),(f) and (i); and, (19)(d), (f), (h), and (i). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency which do not apply within the various environmentally sensitive areas shall be listed within the SEPA guidelines of any county/city adopting such areas.

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

(4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-177, filed 6/15/78; Order 20, § 352-10-177, filed 5/27/76.]

WAC 352-10-180 Exemption for emergency actions. Actions which must be undertaken immediately, or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-180, filed 6/15/78; Order 20, § 352-10-180, filed 5/27/76.]

WAC 352-10-190 Use and effect of categorical exemptions. (1) Those activities excluded from the definition of "action" in WAC 352-10-040(2), or categorically exempted by WAC 352-10-170, 352-10-175, and 352-10-180, 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.

For these proposals, exempt actions may be undertaken prior to the threshold determination. 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.

(3) 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. The determination that a proposal is not exempt because of this subsection shall be made only by the lead agency for that proposal. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-190, filed 6/15/78; Order 20, § 352-10-190, filed 5/27/76.]

WAC 352-10-200 Lead agency--Responsibilities. The lead agency shall be the only agency responsible for complying with the threshold determination procedures

of WAC 352-10-300 through 352-10-390; and the lead agency shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 352-10-400 through 352-10-495, 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 352-10-550 through 352-10-695. [Order 20, § 352-10-200, filed 5/27/76.]

WAC 352-10-203 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. The commission shall determine the lead agency for all proposals for a major action received by the commission, unless the lead agency has been previously determined, or the commission is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in WAC 352-10-205 through 352-10-245.

(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 352-10-260.

(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 352-10-300 through 352-10-390. 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 352-10-260.

(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). [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-203, filed 6/15/78; Order 20, § 352-10-203, filed 5/27/76.]

WAC 352-10-205 Lead agency designation--Governmental proposals. The Washington state parks and

recreation commission shall be the lead agency for all proposals initiated by the commission: *Except* in the event that two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-205, filed 6/15/78; Order 20, § 352-10-205, filed 5/27/76.]

WAC 352-10-210 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 the commission or from the private sector. Any project in which commission 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 352-10-205. [Order 20, § 352-10-210, filed 5/27/76.]

WAC 352-10-215 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. [Order 20, § 352-10-215, filed 5/27/76.]

WAC 352-10-220 Lead agency designation—Private projects requiring licenses from more than one agency, when one of the agencies is a county/city. For proposals for private projects which require nonexempt licenses from more than one agency when at least one of the agencies requiring such a license is a county/city, the lead agency shall be the nonexempt county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-220, filed 6/15/78; Order 20, § 352-10-220, filed 5/27/76.]

WAC 352-10-225 Lead agency designation—Private projects requiring licenses from more than one state agency. (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

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

(g) Department of licensing.

(h) Department of labor and industries.

(2) When none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency which has the largest biennial appropriation.

(3) When, due to the provision of subsection (1) of this section, an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-225, filed 6/15/78; Order 20, § 352-10-225, filed 5/27/76.]

WAC 352-10-230 Lead agency designation—Specific proposals. Notwithstanding the lead agency designation criteria contained in WAC 352-10-205 through 352-10-225, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC): *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 76.09 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 pursuant to the standards of these guidelines.

(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 1342), for a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, 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 not under the jurisdiction of EFSEC, 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 not under the jurisdiction of EFSEC, 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.

(13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas, generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-230, filed 6/15/78; Order 20, 352-10-230, filed 5/27/76.]

WAC 352-10-235 Local agency transfer of lead agency status to a state agency. For any proposal for a private project where a city or town with a population of under five thousand or a county of fifth through ninth class would be the lead agency pursuant to WAC 352-10-210 through 352-10-230, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in WAC 352-10-225. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023

(Order 40), § 352-10-235, filed 6/15/78; Order 20, § 352-10-235, filed 5/27/76.]

WAC 352-10-240 Agreements as to lead agency status. Any agency may assume lead agency if all agencies with jurisdiction agree. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-240, filed 6/15/78; Order 20, § 352-10-240, filed 5/27/76.]

WAC 352-10-245 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. [Order 20, § 352-10-245, filed 5/27/76.]

WAC 352-10-260 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 a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The 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. 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-260, filed 6/15/78; Order 20, § 352-10-260, filed 5/27/76.]

WAC 352-10-270 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 352-10-345, the lead agency responsibilities regarding threshold determination procedures (WAC 352-10-300 through 352-10-390) transfer to the new lead agency. [Order 20, § 352-10-270, filed 5/27/76.]

WAC 352-10-300 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.

(2) The threshold determination requirement may be omitted 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 decide that an EIS is required.

(3) When the threshold determination is omitted, no environmental checklist is required unless a private applicant requests predraft consultation pursuant to WAC 352-10-410. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-300, filed 6/15/78; Order 20, § 352-10-300, filed 5/27/76.]

WAC 352-10-305 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 private applicant requests notification of the date when a threshold determination will be made, the lead agency shall so notify the private applicant in writing. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-305, filed 6/15/78; Order 20, § 352-10-305, filed 5/27/76.]

WAC 352-10-310 Threshold determination procedures—Environmental checklist. (1) An environmental checklist substantially in the form provided in WAC 352-10-365 shall be completed for any proposed major action before making the threshold determination. Every "yes" and "maybe" answer on the checklist shall be explained. Persons completing the checklist may also explain "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) No environmental checklist or threshold determination is required for proposals that are exempted by WAC 352-10-170, 352-10-175 and 352-10-180. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-310, filed 6/15/78; Order 20, § 352-10-310, filed 5/27/76.]

WAC 352-10-320 Threshold determination procedures—Initial review of environmental checklist. 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 the results of this evaluation. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-320, filed 6/15/78; Order 20, § 352-10-320, filed 5/27/76.]

WAC 352-10-330 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. If, after its initial review of the environmental checklist, 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 the subjects 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. Consulted agencies shall respond in accordance with WAC 352-10-500 through 352-10-540.

(2) When the lead agency obtains information reasonably sufficient to assess the adverse environmental impacts of the proposal, it shall immediately make the threshold determination. 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-330, filed 6/15/78; Order 20, § 352-10-330, filed 5/27/76.]

WAC 352-10-340 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 nonsignificance, as appropriate, substantially in the form provided in WAC 352-10-355.

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

(3) A lead agency making a threshold determination of nonsignificance for any of the following proposals shall prepare a proposed declaration of nonsignificance, and comply with the requirements of subsection (4) through (7) below prior to taking any further action on the proposal:

(a) Proposals which have another agency with jurisdiction, except that the commission may specify situations in which written concurrence may be obtained

from the other agency or agencies with jurisdiction and the proposed declaration of nonsignificance omitted and a final declaration of nonsignificance issued.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 352-10-170 (1)(n) or 352-10-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 352-10-170 or 352-10-180.

(4) The lead agency shall issue all proposed declarations of nonsignificance by sending the proposed declaration and environmental checklist to other agencies with jurisdiction.

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

(6) After the fifteen day time period, and after considering any comments, the lead agency shall adopt its proposed declaration as a "final declaration of nonsignificance," determine that the proposal is significant, or utilize the additional information gathering mechanisms of WAC 352-10-330(1).

(7) When a final declaration of nonsignificance results from a proposed declaration of nonsignificance, that final declaration of nonsignificance shall be sent to the department of ecology headquarters office in Olympia. The department of ecology shall list it on the "SEPA register" as specified in WAC 352-10-830. This subsection shall not apply to proposed declarations of nonsignificance, to final declarations of nonsignificance issued in accordance with WAC 352-10-340(2) or to final declarations of nonsignificance made under the "agreement with other agency" provision of WAC 352-10-340 (3)(a). Checklists need not be sent.

(8) Issuance of proposed and final declarations of nonsignificance completes the procedural requirements of these guidelines unless another agency with jurisdiction assumes lead agency duties and responsibilities pursuant to WAC 352-10-345. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-340, filed 6/15/78; Order 20, § 352-10-340, filed 5/27/76.]

WAC 352-10-345 Assumption of lead agency status by another agency with jurisdiction over a proposal-- Prerequisites, effect and form of notice. (1) An agency with jurisdiction over a proposal, upon review of a proposed declaration of nonsignificance, may transmit to the initial lead agency a completed "Notice of assumption of lead agency status." This notice shall be substantially similar to that described in subsection (4) below. Assumption of lead agency status shall take place only

within fifteen days of issuance of the proposed declaration of nonsignificance (as provided for in WAC 352-10-340).

(2) The affirmative threshold determination by the new lead agency shall be based only upon information contained in the environmental checklist attached to the proposed declaration of nonsignificance transmitted by the first lead agency and any other information possessed by the new lead agency relative to the matters contained in the environmental checklist.

(3) As a result of transmitting 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 expeditiously prepare a draft and a final 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 nonsignificance 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.

(6) Agencies with jurisdiction may still comment critically upon a proposed declaration of nonsignificance without assuming lead agency status. No agency shall be deemed to have assumed lead agency status 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-345, filed 6/15/78; Order 20, § 352-10-345, filed 5/27/76.]

WAC 352-10-350 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 352-10-355. This form shall be retained in the files of the lead agency with a copy sent to the applicant in the case of a private project. If the proposal is not modified by the applicant resulting in a withdrawal of the affirmative threshold determination as allowed by WAC 352-10-370, the lead agency shall begin the EIS preparation procedures of WAC 352-10-400 through 352-10-695.

(2) If the additional information gathering mechanisms of WAC 352-10-330 have been utilized, and the lead agency reasonably believes that the proposal could have a significant adverse impact, the affirmative threshold determination shall be made. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-350, filed 6/15/78; Order 20, § 352-10-350, filed 5/27/76.]

WAC 352-10-355 Form of declaration of significance/nonsignificance. (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 nonsignificance. This form shall be attached to the environmental checklist together with any other information obtained pursuant to WAC 352-10-330, and maintained in the files of the lead agency.

(2) The form is as follows:

FORM FOR (PROPOSED/FINAL) DECLARATION OF (SIGNIFICANCE/NONSIGNIFICANCE)

Description of Proposal -----
Proponent -----
Location of Proposal -----
Lead Agency -----
This proposal has been determined to (have/not have) a significant adverse impact upon the environment. An EIS (is/is not) required under RCW 43.21C.030 (2)(c). This decision was made after review by the lead agency of a completed environmental checklist and other information on file with the lead agency.
Responsible Official -----
Position/Title -----
Date ----- Signature -----

(3) If the form is for a declaration of environmental significance, the lead agency may add to the information contained in subsection (2) of this section a listing of those environmental impacts which led to the declaration, together with a brief explanation of what measures, if any, could be taken to prevent or mitigate the environmental impacts of the proposal to such an extent that

the lead agency would withdraw its declaration and issue a (proposed/final) declaration of nonsignificance. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-355, filed 6/15/78; Order 20, § 352-10-355, filed 5/27/76.]

WAC 352-10-360 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 352-10-060), 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 in the checklist shall not be considered in the threshold determination.

(2) The questions in the environmental checklist are not weighted. While some "yes" answers to several of these questions are likely, the proposal may still not have a significant adverse impact. However, depending upon the nature of the impact and location of the proposal, a single affirmative answer could indicate a significant adverse impact. 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 352-10-330, 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 352-10-330). It is expected, however, that many proposals can be evaluated entirely through an office review (see WAC 352-10-320) 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-360, filed 6/15/78; Order 20, § 352-10-360, filed 5/27/76.]

WAC 352-10-365 Environmental checklist. (1) The form in subsection (2) of this section is the environmental checklist. The commission may at its 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 352-10-360 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 supplemental.

(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) Earth. Will the proposal result in:			
(a) Unstable earth conditions or in changes in geologic substructures?	---	---	---
(b) Disruptions, displacements, compaction or overcovering of the soil?	---	---	---
(c) Change in topography or ground surface relief features?	---	---	---
(d) The destruction, covering or modification of any unique geologic or physical features?	---	---	---
(e) Any increase in wind or water erosion of soils, either on or off the site?	---	---	---
(f) Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	---	---	---
Explanation: ----- -----			
(2) Air. Will the proposal result in:			
(a) Air emissions or deterioration of ambient air quality?	---	---	---
(b) The creation of objectionable odors?	---	---	---
(c) Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?	---	---	---
Explanation: ----- -----			
(3) Water. Will the proposal result in:			
(a) Changes in currents, or the course or direction of water movements, in			

Yes Maybe No

either marine or fresh waters?	---	---	---
(b) Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?	---	---	---
(c) Alterations to the course or flow of flood waters?	---	---	---
(d) Change in the amount of surface water in any water body?	---	---	---
(e) Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?	---	---	---
(f) Alteration of the direction or rate of flow of ground waters?	---	---	---
(g) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	---	---	---
(h) Deterioration in ground water quality, either through direct injection, or through the seepage of leachate, phosphates, detergents, waterborne virus or bacteria, or other substances into the ground waters?	---	---	---
(i) Reduction in the amount of water otherwise available for public water supplies?	---	---	---
Explanation: ----- -----			
(4) Flora. Will the proposal result in:			
(a) Change in the diversity of species, or numbers of any species of flora (including trees, shrubs, grass, crops, microflora and aquatic plants)?	---	---	---

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

	Yes	Maybe	No
planned land use of an area?	---	---	---

Explanation: -----

- (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? --- --- ---

	Yes	Maybe	No
(b) Effects on existing parking facilities, or demand for new parking?	---	---	---
(c) Impact upon existing transportation systems?	---	---	---
(d) Alterations to present patterns of circulation or movement of people and/or goods?	---	---	---
(e) Alterations to waterborne, rail or air traffic?	---	---	---
(f) Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	---	---	---
Explanation:			

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

(a) Fire protection?	---	---	---
(b) Police protection?	---	---	---
(c) Schools?	---	---	---
(d) Parks or other recreational facilities?	---	---	---
(e) Maintenance of public facilities, including roads?	---	---	---
(f) Other governmental services?	---	---	---
Explanation:			

(15) **Energy.** Will the proposal result in:

(a) Use of substantial amounts of fuel or energy?	---	---	---
(b) Demand upon existing sources of energy, or require the development of new sources of energy?	---	---	---
Explanation:			

(16) **Utilities.** Will the proposal result in a need for

	Yes	Maybe	No
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?

---	---	---	---
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 nonsignificance 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: -----

[Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-365, filed 6/15/78; Order 20, § 352-10-365, filed 5/27/76.]

WAC 352-10-370 Withdrawal of affirmative threshold determination. If at any time after the issuance of a declaration of significance, the proponent modifies the proposal so that, in the judgment of the lead agency, all significant adverse environmental impacts which might result are eliminated, the declaration of significance shall be withdrawn and a declaration of nonsignificance issued instead. 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 or other binding commitment is made by the applicant. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-370, filed 6/15/78; Order 20, § 352-10-370, filed 5/27/76.]

WAC 352-10-375 Withdrawal of negative threshold determination. (1) Except after a nonexempt license has been issued for a private project, the lead agency may withdraw any proposed or final declaration of nonsignificance 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 nonsignificance 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 willful 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 352-10-300 through 352-10-360.

(4) Whenever a final declaration of nonsignificance has been withdrawn for one of the reasons in subsection (2) of this section, and the lead agency, after 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 nonexempt licenses issued for the proposal until compliance with the procedures of these guidelines is met. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), §

352-10-375, filed 6/15/78; Order 20, § 352-10-375, filed 5/27/76.]

WAC 352-10-380 Intra-agency appeals of threshold determinations. Agencies may provide in their guidelines for internal review or appeals of threshold determinations, including appeals initiated by members of the public. The time required to complete any such review or appeal mechanisms may be considered an addition to that recommended by WAC 352-10-305. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-380, filed 6/15/78; Order 20, § 352-10-380, filed 5/27/76.]

WAC 352-10-390 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. 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 nonsignificance from the lead agency, may complete and transmit a notice of assumption of lead agency status after meeting the requirements of WAC 352-10-345. As a result of compliance with WAC 352-10-345, 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-390, filed 6/15/78; Order 20, § 352-10-390, filed 5/27/76.]

WAC 352-10-400 Duty to begin preparation of a draft EIS. After compliance with WAC 352-10-350, relating to preparation of a declaration of significance, the lead agency shall prepare the draft and final EIS in compliance with WAC 352-10-410 through 352-10-695. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-400, filed 6/15/78; Order 20, § 352-10-400, filed 5/27/76.]

WAC 352-10-405 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.

(3) The purpose of an EIS is better served by short, concise documents containing summaries of, or reference to, technical data and avoiding unnecessarily detailed information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decision-making process. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-405, filed 6/15/78; Order 20, § 352-10-405, filed 5/27/76.]

WAC 352-10-410 Predraft consultation procedures.

(1) Predraft consultation occurs when the lead agency consults another agency with jurisdiction or expertise prior to completion of the draft EIS. Predraft 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. Predraft consultation with another agency on public proposals may be initiated at the option of the lead agency.

(2) Predraft consultation is begun 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 possessed by the lead agency.

(b) A copy of the environmental checklist required by WAC 352-10-310, as reviewed pursuant to WAC 352-10-320.

(c) Any information in addition to the checklist resulting from application of WAC 352-10-330.

(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 352-10-500 through 352-10-540.

(4) The lead agency shall incorporate the relevant information received from other agencies during the predraft 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 predraft consultation in a separate "response" section. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-410, filed 6/15/78; Order 20, § 352-10-410, filed 5/27/76.]

WAC 352-10-420 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 these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or his agent, or by an outside consultant retained by either a private applicant or the lead agency. 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 predraft 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 relate to the subject of the EIS, pursuant to chapter 42.17 RCW (Public Disclosure and Public Records Law; Initiative 276, 1973).

(4) Private applicants applying to the commission under RCW 43.51.130 to improve state park lands are authorized to help prepare any EIS required for proposed work.

(5) Private applicants applying to the commission under RCW 43.51.040(5) or as amended to construct or operate concession facilities on state park lands are required to help prepare any EIS required for proposed work.

(6) Private applicants applying to commission under RCW 43.51.685 or as amended to remove sand from the seashore conservation area as defined in RCW 43.51.655 are required to help prepare any EIS required.

(7) Private applicants applying to the commission under RCW 43.51.062 or as amended to obtain a new lease or lease renewal to operate a television station or other transmitter or repeater devices on park lands are required to help prepare any EIS required.

(8) The commission shall not require more information than that specified in WAC 352-10-310, 352-10-320 or 352-10-330. The commission reserves the right to require less information of the applicant. *Provided*, That nothing herein shall be construed to prohibit the

commission from charging any fee of an applicant which the commission is otherwise authorized to charge (see WAC 352-10-860).

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.

(9) The provisions of this section apply to both the draft and final EIS. [Statutory Authority: RCW 43-.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-420, filed 6/15/78; Order 20, § 352-10-420, filed 5/27/76.]

WAC 352-10-425 Organization and style of a draft EIS. (1) The required contents of a draft EIS for proposals of both a project and nonproject nature are set forth in WAC 352-10-440. 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 352-10-440(1) through 352-10-440(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 352-10-440(7) through 352-10-440(14): *Provided*, That all of the subject matters required by WAC 352-10-440 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. [Order 20, § 352-10-425, filed 5/27/76.]

WAC 352-10-440 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 modified as necessary to meet the requirements of that federal agency.

(2) **Introduction.** The following information shall be briefly given 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. The responsible official shall attempt to make this list as complete and specific as possible. Licenses shall be listed by name and agency.

(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 352-10-460).

(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 subjects covered. In the event impacts cannot be predicted with certainty, the reason for uncertainty together with the more likely possibilities should be concisely stated. 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 effected 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 nonproject 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, the timing of each phase should be identified. If later phases of the proposal are expected to 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, 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 352-10-444.

(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. Those species and habitats which may be significantly affected should be emphasized.

(iv) This subsection shall be brief, nontechnical, 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 352-10-444, 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 352-10-444(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 non-renewable 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 changes to the proposal which may avoid, mitigate or reduce the risk of any adverse environmental impacts.

(b) Energy conservation measures, including more efficient use 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) When 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.

(b) For any impact discussed in subsection (8) of this section which is determined to be nonadverse, 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 352-10-444, 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 352-10-446.) [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-440, filed 6/15/78; Order 20, § 352-10-440, filed 5/27/76.]

WAC 352-10-442 Special considerations regarding contents of an EIS on a nonproject action. (1) WAC 352-10-440 applies to the contents of a draft EIS for a nonproject action. However, lead agencies have greater flexibility in their approach to achieving compliance

with the requirements of WAC 352-10-440 in writing and EIS for nonproject 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 aware that typically in developing and reviewing proposals for nonproject actions the range of alternatives is broader than in developing 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-442, filed 6/15/78; Order 20, § 352-10-442, filed 5/27/76.]

WAC 352-10-444 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. (Provided, this list of elements need not be appended to an EIS being prepared to satisfy both the National Environmental Policy Act and SEPA.)

(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.

[Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-444, filed 6/15/78; Order 20, § 352-10-444, filed 5/27/76.]

WAC 352-10-446 Draft EIS--Optional additional elements--Limitation. The guidelines of the lead agency

shall control the content of the EIS, even though other agencies with jurisdiction are involved in the proposal. No agency shall prescribe additional material for an EIS beyond that which is required or optionally allowed by WAC 352-10-440 and 352-10-444, or which is added to the elements of the environment by the guidelines of the lead agency pursuant to the authority in this section (see WAC 352-10-440(14)). [Order 20, § 352-10-446, filed 5/27/76.]

WAC 352-10-450 Public awareness of availability of draft EIS. The lead agency is encouraged, but not required, to use any reasonable method to inform the public that the draft EIS is available 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-450, filed 6/15/78; Order 20, § 352-10-450, filed 5/27/76.]

WAC 352-10-455 Circulation of the draft EIS--Review period. (1) A consulted agency shall have thirty-five days from the date of issuance in which to review the draft and forward its comments and information 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 issuance for the public to forward to the lead agency any comments upon or substantive information related to the proposal and the draft EIS. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-455, filed 6/15/78; Order 20, § 352-10-455, filed 5/27/76.]

WAC 352-10-460 Specific agencies to which draft EIS shall be sent. (1) The draft EIS shall be issued by sending copies 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 352-10-040 and 352-10-465 (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 nonproject 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, state-wide 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, 35.63.070 and 36.70.070).

(g) (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 352-10-040, 352-10-465, 352-10-510 and 352-10-520 for those provisions that define a consulted agency.) [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-460, filed 6/15/78; Order 20, § 352-10-460, filed 5/27/76.]

WAC 352-10-465 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) Energy facility 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 transportation.
- (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) Office of archaeology and historic preservation.
- (b) Washington State University at Pullman (Washington archaeological research center).

[Statutory Authority: RCW 43.21C.120 and

43.51.040(2). 78-07-023 (Order 40), § 352-10-465, filed 6/15/78; Order 20, § 352-10-465, filed 5/27/76.]

WAC 352-10-470 Cost to the public for reproduction of environmental documents. The lead agency shall provide a copy of any environmental document, in accordance with chapter 42.17 RCW, charging only those costs allowed therein plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these guidelines. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-470, filed 6/15/78; Order 20, § 352-10-470, filed 5/27/76.]

WAC 352-10-480 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 it 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 issuance of the draft EIS; 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 issuance of the draft EIS.

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no later than fifty-one days from the issuance of the draft EIS and no earlier than fifteen days from such date of issuance. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-480, filed 6/15/78; Order 20, § 352-10-480, filed 5/27/76.]

WAC 352-10-485 Notice of public hearing on environmental impact of the proposal. Notice of all public hearings to be held pursuant to WAC 352-10-480(2) shall be published in a newspaper of general circulation in the area where the project will be implemented. For nonproject 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 nonproject 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-485, filed 6/15/78; Order 20, § 352-10-485, filed 5/27/76.]

WAC 352-10-490 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. [Order 20, § 352-10-490, filed 5/27/76.]

WAC 352-10-495 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 352-10-450 through 352-10-490 for the amended or new draft EIS. [Order 20, § 352-10-495, filed 5/27/76.]

WAC 352-10-500 Responsibilities of consulted agencies--Local agencies. Each local agency, when responding to a consultation request prior to a threshold determination, participating in predraft 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. [Order 20, § 352-10-500, filed 5/27/76.]

WAC 352-10-510 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 predraft 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. 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 risk which remain after it has conducted the investigations that may have been required. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-

510, filed 6/15/78; Order 20, § 352-10-510, filed 5/27/76.]

WAC 352-10-520 Responsibilities of consulted agencies—State agencies with environmental expertise.

(1) When requested by the lead agency, each state agency participating in predraft consultation, or reviewing a draft EIS, lacking jurisdiction, but possessing environmental expertise pertaining to the impacts associated with a proposal (see WAC 352-10-465) shall provide to the lead agency that substantive data, information, test results or other material relevant to the proposal which the consulted agency 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 352-10-440 or 352-10-442. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-520, filed 6/15/78; Order 20, § 352-10-520, filed 5/27/76.]

WAC 352-10-530 Responsibilities of consulted agencies—When predraft consultation has occurred.

When a consulted agency has engaged in the predraft consultation procedures set forth in WAC 352-10-410, 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 predraft consultation stage). [Order 20, § 352-10-530, filed 5/27/76.]

WAC 352-10-535 Cost of performance of consulted agency responsibilities.

A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 352-10-500 through 352-10-540, including, but not limited to, 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-535, filed 6/15/78; Order 20, § 352-10-535, filed 5/27/76.]

WAC 352-10-540 Limitations on responses to consultation.

If part or all of the relevant data possessed by a consulted agency is voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or if it consists of a report or document published by another agency, or is 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 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-540, filed 6/15/78; Order 20, § 352-10-540, filed 5/27/76.]

WAC 352-10-545 Effect of no written comment.

If a consulted agency does not respond with written comments within thirty-five days of the date of issuance of the draft EIS or within a fifteen-day extension period 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 352-10-400 through 352-10-495, or with the contents of the final EIS. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-545, filed 6/15/78; Order 20, § 352-10-545, filed 5/27/76.]

WAC 352-10-550 Preparation of the final EIS—Time period allowed.

The lead agency shall prepare a final EIS within seventy-five days of issuance of the draft EIS. 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-550, filed 6/15/78; Order 20, § 352-10-550, filed 5/27/76.]

WAC 352-10-570 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 that effect and circulate that statement in the manner prescribed in WAC 352-10-600.

(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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-570, filed 6/15/78; Order 20, § 352-10-570, filed 5/27/76.]

WAC 352-10-580 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 or only minor 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, any minor changes to the EIS or proposal, 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 352-10-600: *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 rewritten EIS in the manner specified in WAC 352-10-600. The lead agency shall ensure that the rewritten 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-580, filed 6/15/78; Order 20, § 352-10-580, filed 5/27/76.]

WAC 352-10-600 Circulation of the final EIS. The final EIS shall be issued by circulating it to the department of ecology, office of the governor or the governor's designee, the ecological commission, 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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-600, filed 6/15/78; Order 20, § 352-10-600, filed 5/27/76.]

WAC 352-10-650 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. section 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 352-10-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the lead agency determines that the federal EIS is adequate, a notice to this effect shall be circulated as in WAC 352-10-600.

(4) If a hearing open to public comment upon the adequacy of the federal EIS has not previously been held within the jurisdiction of the SEPA lead agency, 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 the notice in subsection (3) above, 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. The lead agency shall reconsider its determination of adequacy in view of comments received at any such public hearing. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-650, filed 6/15/78; Order 20, § 352-10-650, filed 5/27/76.]

WAC 352-10-652 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 352-10-650(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. [Order 20, § 352-10-652, filed 5/27/76.]

WAC 352-10-660 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) Where any intervening change in conditions would make the previous EIS misleading when applied to the new proposed action, a previous EIS shall not be used without an explanatory supplement.

(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 352-10-400 through 352-10-695. 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 circulate it as provided in WAC 352-10-600. 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. However, the provisions of WAC 352-10-480 through 352-10-490, relating to a public hearing on the environmental impact of a proposal shall apply. [Statutory Authority: RCW 43.21C-.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-660, filed 6/15/78; Order 20, § 352-10-660, filed 5/27/76.]

WAC 352-10-690 Use of lead agency's EIS by other acting agencies for the same proposal. (1) When an agency is considering an action which is part of a proposal covered by a final EIS of a lead agency, and the agency 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) of this section.

(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 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 352-10-440 (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. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-690, filed 6/15/78; Order 20, § 352-10-690, filed 5/27/76.]

WAC 352-10-695 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 352-10-450 through 352-10-470. 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 352-10-550

through 352-10-580 and the final supplemental EIS, together with the prior EIS, shall be regarded as a final EIS for all purposes of these guidelines. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-695, filed 6/15/78; Order 20, § 352-10-695, filed 5/27/76.]

WAC 352-10-700 No action for seven days after publication of the final EIS. No agency shall take any major action (as defined in WAC 352-10-040(26)) on a proposal for which an EIS has been required, prior to seven days from the issuance of the final EIS. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-700, filed 6/15/78; Order 20, § 352-10-700, filed 5/27/76.]

WAC 352-10-710 EIS combined with existing planning and review processes. The EIS process shall be combined with the existing planning, review and project approval processes being used by each agency with jurisdiction by law over a proposal. When required to be prepared, the EIS, the declaration of nonsignificance, or the previously circulated EIS being utilized pursuant to WAC 352-10-660, shall accompany a proposal through the existing review processes. [Order 20, § 352-10-710, filed 5/27/76.]

WAC 352-10-810 Amendments to this chapter. In the event that CEP or its successor agency adopts amendments to its guidelines, the commission shall adopt amendments of its own guidelines within one hundred twenty days to bring commission guidelines into conformance as provided by RCW 43.21C.100, 43.21C-.110 and 43.21C.120. [Order 20, § 352-10-810, filed 5/27/76.]

WAC 352-10-820 Designation of responsible official. The ultimately responsible official is the commission. Normally, the operational responsibility shall be delegated via the director to the level of chief, environmental coordination. When significant commission involvements converge at a level higher than chief, environmental coordination, consideration shall be given to establishing the responsible official at the level of assistant director, resources development. When significant commission involvements converge at a level higher than assistant director, resources development, consideration shall be given to establishing the responsible official at the level of director, Washington state parks and recreation commission. [Order 20, § 352-10-820, filed 5/27/76.]

WAC 352-10-825 Procedures when consulted agency. The commission shall develop internal procedures for providing responses to consultation requests from other agencies pertaining to threshold investigations, predraft consultation, or draft EISs. Such procedures shall ensure that the agency will be able to comply with the requirements of WAC 352-10-500 through 352-10-540. It is recommended that these procedures be

integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency. [Order 20, § 352-10-825, filed 5/27/76.]

WAC 352-10-830 Commission SEPA public information center. (1) The commission's SEPA public information center shall be located in the office of the environmental coordination section at the headquarters office of the commission in Olympia.

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

(a) Copies of all declarations of nonsignificance 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) 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.

(4) The commission shall transmit the following documents to the department of ecology headquarters office in Olympia:

(a) All draft and final EISs. (See WAC 352-10-460 and 352-10-600;)

(b) All final declarations of nonsignificance for which a proposed declaration of nonsignificance has been circulated. (See WAC 352-10-340(7).)

(5) Each week the department of ecology shall prepare a listing of the documents in subsection (4)(a) and (b) above and make the listing available to other agencies and to the public. The department may charge a reasonable fee for this list in the manner provided for in chapter 42.17 RCW. This listing shall be known as the "SEPA REGISTER."

(6) The commission may take any additional steps found appropriate to inform other agencies and the public of EISs in preparation, EISs available, proposed declarations of nonsignificance, final declarations of nonsignificance and other SEPA-related matters. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-830, filed 6/15/78; Order 20, § 352-10-830, filed 5/27/76.]

WAC 352-10-840 Application of commission guidelines to ongoing actions. (1) These 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, these guidelines shall apply to those elements of SEPA compliance remaining to be undertaken subsequent to the effective date of such guidelines. These guidelines adopted pursuant to RCW 43.21C.120 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. [Order 20, § 352-10-840, filed 5/27/76.]

WAC 352-10-860 Fees to cover the costs of SEPA compliance. Except for the reproduction and mailing costs specifically allowed by this chapter, and the provisions of WAC 352-10-535, these guidelines neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance. [Order 20, § 352-10-860, filed 5/27/76.]

WAC 352-10-910 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. [Order 20, § 352-10-910, filed 5/27/76.]

WAC 352-10-920 Effective date. These guidelines shall become effective not sooner than June 14, 1978. [Statutory Authority: RCW 43.21C.120 and 43.51.040(2). 78-07-023 (Order 40), § 352-10-920, filed 6/15/78; Order 20, § 352-10-920, filed 5/27/76.]

Chapter 352-12 WAC

MOORAGE AND USE OF MARINE FACILITIES

WAC

352-12-005	Definitions.
352-12-010	Moorage and use of marine facilities.
352-12-020	Moorage fees.
352-12-030	Seasonal permits.
352-12-040	Use of onshore campsites.
352-12-050	Self-registration.

WAC 352-12-005 Definitions. As used in this chapter, the following words and terms have the meanings indicated, unless the context clearly requires otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission. Where appropriate, the term "commission" also refers to the staff and employees of the Washington state parks and recreation commission.

(2) "Facility" shall mean state park floats, piers and mooring buoys.

(3) "Vessel" shall mean watercraft of every description, used or capable of being used as a means of transportation on the water.

(4) "Commercial vessel" shall mean a vessel which is used, rigged, or licensed for any commercial use or purpose, but shall not include vessels operated within the terms of a concession lease or agreement with the commission.

(5) "Length" shall mean the overall length of a vessel as measured in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, not including bowsprit or bunion or as shown on vessel's state or coast guard registration certificate.

(6) "Night" shall mean the period between 3 p.m. and 8 a.m. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-005, filed 3/31/82.]

WAC 352-12-010 Moorage and use of marine facilities. (1) No person or persons shall moor or berth a vessel of any type in a commission owned or operated park or marine area except in designated marine park areas and at designated facilities.

(2) Use of designated marine park areas and facilities by commercial vessels is prohibited except for the loading and unloading of passengers transported for recreation purposes: *Provided however*, Park managers and park rangers may allow extended or night moorage at any facility during the period September 15 through April 30, inclusive, if in the manager's or ranger's sole discretion sufficient space is reasonably available therefor.

(3) In order to afford the general public the greatest possible use of marine park facilities, continuous moorage at a facility by the same vessel, person or persons shall be limited to three consecutive nights, unless otherwise posted by the commission at any individual facility or area.

(4) In order to maximize usable space at mooring floats, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted, within posted limits, but not mandatory.

(5) Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility, by means of a dinghy or any method other than occupying the space by the vessel to be moored, shall not be permitted.

(6) Dinghies shall be tied up only in designated spaces on moorage floats.

(7) Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall be permitted on state park floats or piers only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the ranger shall make final determination. [Statutory Authority: RCW 43.51.040. 83-06-051 (Order 65), § 352-12-010, filed 3/2/83. Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-010, filed 3/31/82; Filed 6/30/65.]

WAC 352-12-020 Moorage fees. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through Labor Day, inclusive, according to the following schedule:

(a) Twenty-six feet in length, and over, \$5.00 per night;

(b) Under twenty-six feet in length, \$3.00 per night: *Provided, however*, Vessels properly displaying a valid seasonal permit shall not be charged a nightly moorage

fee: *Provided further*, There shall be no moorage fee for dinghies, vessels moored to state park buoys, or any vessel riding on its own anchor: *Provided further*, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-020, filed 3/31/82.]

WAC 352-12-030 Seasonal permits. (1) Seasonal moorage permits may be obtained for the period May 1 through Labor Day, inclusive. Application for such permits may be obtained from most state park managers, or by writing to the Commission Headquarters, 7150 Cleanwater Lane, KY-11, Olympia, WA 98504.

(2) Seasonal moorage permits will be issued for a particular vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued. Seasonal permits for vessels twenty-six feet in length and over shall cost \$40.00; for vessels under twenty-six feet in length shall cost \$24.00.

(3) Seasonal permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-030, filed 3/31/82.]

WAC 352-12-040 Use of onshore campsites. If any person or persons from a vessel moored at a state park marine facility also occupies any designated campsite onshore, the appropriate fee for such campsite(s) established in WAC 352-32-250 shall be paid in addition to any moorage fee provided for herein. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-040, filed 3/31/82.]

WAC 352-12-050 Self-registration. In those marine park areas so posted by the commission, park visitors shall register for the use of marine facilities and onshore campsites, and pay the appropriate moorage and campsite fees as provided for herein, on a self-registration basis, in accordance with all posted instructions. Failure to so register and pay moorage and campsite fees may result in eviction from moorage and campsite space, in addition to any other penalty prescribed by law for violation of commission rules and regulations. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-08-027 (Order 59), § 352-12-050, filed 3/31/82.]

Chapter 352-16 WAC

NAMING OF SITES AND LAND CLASSIFICATION

WAC	
352-16-010	Naming of sites.
352-16-020	Land classification.

WAC 352-16-010 Naming of sites. (1) The official naming of any state parks site shall be the function of the commission. In addition, the commission may consider suggestions made by its individual members, or by members of the interested public made at a regular or special meeting. [Order 7, § 352-16-010, filed 4/1/70.]

WAC 352-16-020 Land classification. (1) **State parks** are spacious combinations of natural and recreational areas with overall statewide significance and outstanding scenic beauty. They provide for active and passive, low and high density outdoor recreation activities. Heritage areas or other special use areas may be included, but are not prerequisites to this classification.

(2) **State recreation areas** are land and water areas suited and/or developed for high density outdoor recreational use. Such areas do not necessarily meet the high scenic standards for state parks.

(3) **State natural areas** are areas obligated to conserving a natural environment in a nearly undeveloped state for active and passive low density outdoor recreation activities. These areas may be found or made. They may be considered heritage areas and developed accordingly if their flora or fauna is unique or exceptional in size or character.

(4) **State heritage areas** are areas which preserve and interpret unique geologic, paleontologic, archaeologic, historic, scientific, ecologic and cultural features of the state which transcend local interest and are of statewide or national significance.

(5) **State launch areas** are areas solely developed for boating ingress and egress.

(6) **State conservation areas** are aggregates of recreationally developed and undeveloped open space legally dedicated to sustained recreational use. They may contain any combination of state park, recreation area, natural area, heritage area, launch area, or other open space area under public ownership or administration.

(7) **State ocean beach access areas** are sites of limited acreage along the Washington coastline which provide public access to waters, shore, and recreational opportunities of the Pacific Ocean.

(8) **State environmental learning centers** are resident camping facilities made available to interested groups to provide their members with the opportunity to live, work, study and play in the outdoor environment. [Order 31, § 352-16-020, filed 3/28/77; Order 18, § 352-16-020, filed 2/1/74; Order 7, § 352-16-020, filed 4/1/70.]

Chapter 352-20 WAC

USE OF MOTOR DRIVEN VEHICLES IN STATE PARKS--PARKING RESTRICTIONS--VIOLATIONS

WAC

352-20-010	Parking.
352-20-020	Motor vehicles on roads and trails.
352-20-030	Speed limits.
352-20-040	Vehicles in snow areas.
352-20-050	Trucks and commercial vehicles.
352-20-060	Definitions.

WAC 352-20-010 Parking. (1) No operator of any automobile, trailer, camper, boat trailer, or other vehicle, shall park such vehicle in any state park area, except where the operator is using the area for a designated recreational purpose and the vehicle is parked either in a designated parking area, or in another area with the permission of a ranger.

(2) No person shall park, leave standing, or abandon a vehicle in any state park area after closing time, except when camping in a designated area, or with permission from the ranger.

(3) Any vehicle found parked in violation of subsection (1) or (2) of this section may be towed away at the owner's or operator's expense. [Order 9, § 352-20-010, filed 11/24/70; Rule filed 8/24/67.]

WAC 352-20-020 Motor vehicles on roads and trails. (1) No person shall operate any motor vehicle on a trail in any state park area unless such trail has been specifically designated and posted for such use.

(2) Subject to the provisions of subsection (1) of this section, no person shall operate a motor vehicle within the boundaries of a state park area except on roads, streets, highways, parking lots, parking areas, ATV areas or snowmobile trails and areas. [Order 29, § 352-20-020, filed 1/26/77; Order 9, § 352-20-020, filed 11/24/70; Resolution filed 12/11/67.]

WAC 352-20-030 Speed limits. No person shall drive a motor vehicle within any state park area at a speed greater than is reasonable and prudent, having due regard for the traffic on, and the surface and width of the road, and in no event at a speed which endangers the safety of persons, property, or wildlife: *Provided, however,* That in no event shall a vehicle be driven at a speed greater than 15 miles per hour in camp, picnic, utility, or headquarters areas, or in areas of general public assemblage: *And provided further,* That in no event shall a vehicle be driven at a speed greater than 25 miles per hour in any other area except designated ATV areas and trails. In no event shall a person operate a vehicle in a designated ATV area or trail at a speed which is not reasonable and prudent for the activity and existing conditions. The commission, however, upon finding that the safety of persons and the condition of the road and the traffic thereon so warrants, may establish lower speed limits and shall post the same in the area where so established. [Order 29, § 352-20-030, filed 1/26/77; Order 9, § 352-20-030, filed 11/24/70.]

WAC 352-20-040 Vehicles in snow areas. All vehicles operating upon roads within the boundaries of any state park area when such roads are covered with snow or ice, and so posted, shall be equipped with approved snow tires or chains. Roads and conditions will be posted and traffic permitted only at the discretion of the ranger. [Order 9, § 352-20-040, filed 11/24/70.]

WAC 352-20-050 Trucks and commercial vehicles. No person shall cause a truck or other vehicle while being used for commercial purposes to enter upon, use, or

traverse any portion of any state park area or any park road therein except in the service of the commission at the request of an employee of the commission, or by express permission of the director for a special activity not inconsistent with state park use: *Provided*, That the provisions of this section shall not apply to county roads or state highways. [Order 9, § 352-20-050, filed 11/24/70.]

WAC 352-20-060 Definitions. Whenever used in this chapter the following terms shall be defined as indicated herein:

(1) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a road, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motorbikes, motor scooters, jeeps, or similar type 4-wheel drive vehicles, and snowmobiles, whether or not they can legally be operated upon the public highways.

(2) "Trail" shall mean any path or track designed for use of pedestrians or equestrians and which is not of sufficient width, nor graded or paved with concrete, asphalt, gravel, or similar substance, so as to permit its use by standard passenger automobiles; or any other right of way specifically designated and posted for nonvehicular use. [Order 9, § 352-20-060, filed 11/24/70.]

**Chapter 352-24 WAC
CONCESSIONS AND LEASES**

WAC	
352-24-010	Approval of concessions and leases.
352-24-020	Preservation and use.
352-24-030	Merchandising.
352-24-040	Acquisition and ownership of facilities by the commission.
352-24-050	Definitions.
352-24-060	Abandonment or destruction of improvements.
352-24-070	Compensation for concessionaire's possessory interest.
352-24-080	Compensation to the state for improvements placed by the state.
352-24-090	General provisions.
352-24-100	Bidding procedures.
352-24-110	Notification to bidder.
352-24-120	The highest and best bid.
352-24-130	Commission's acceptance.
352-24-140	Bond requirement.
352-24-150	Transactions involving interest of concessionaire.
352-24-160	Advertising.
352-24-170	Concessionaire's employees.
352-24-180	Anti-discrimination.
352-24-190	Representation of commission endorsement.
352-24-200	Sale of majority stock interest in corporation.
352-24-210	Approval of subconcession contracts.
352-24-220	Violation of lease.
352-24-230	Preferential right.
352-24-240	Insurance requirement.
352-24-250	Contract, franchise, or lease fees.
352-24-260	Audits, accounting records and reports.
352-24-270	Provision for arbitration.
352-24-280	Temporary concession permits.

WAC 352-24-010 Approval of concessions and leases. The commission shall approve, or disapprove, all

concessions and leases, and may, in its discretion, authorize the director to sign any lease or concession agreement on behalf of the commission, which authorization shall be incorporated into the minutes of the regular or special meeting at which it is granted. [Order 7, § 352-24-010, filed 4/1/70.]

WAC 352-24-020 Preservation and use. (1) The Laws of 1921 and all acts amendatory thereto creating the Washington state parks and recreation commission prescribe both preservation and use of the parks and parkways administered by the commission. To harmonize these objectives to the greatest extent possible, it shall be the policy of the commission to permit the development of accommodations and facilities within the areas administered by the commission only to the extent that such accommodations and facilities are necessary and appropriate for the public use and enjoyment of the areas.

(2) The number of sites and the locations and the sizes of the tracts of land assigned for necessary accommodations and facilities shall be held to the minimum essential to the proper and satisfactory operation of the accommodation or facility authorized to be installed and operated. Such developments as are permitted shall be constructed so as to be as harmonious as possible with their surroundings. To this end, plans and specifications for buildings and other structures to be erected by the concessionaire shall be prepared at the expense of the concessionaire and submitted to the commission for approval before construction is begun. Such plans, when approved, shall be adhered to by the concessionaire in erecting the structures authorized.

(3) In areas where the need would be in the nature of a refreshment stand, the structure will be constructed by the commission at the discretion of the commission. [Order 7, § 352-24-020, filed 4/1/70.]

WAC 352-24-030 Merchandising. (1) Merchandising within the areas administered by the commission shall be limited, in general, to those items and services appropriate or necessary for the public use and enjoyment of the areas.

(2) All such merchandising shall be subject to the right of the commission to determine and control the nature, type, and sales price of merchandise or service sold in the area: *Provided, however*, That the commission may not regulate or adjust such prices below an amount that would allow a reasonable return and profit to the concessionaire nor below an amount comparable to prices on like merchandise and services in similar recreational areas in that region. [Order 7, § 352-24-030, filed 4/1/70.]

WAC 352-24-040 Acquisition and ownership of facilities by the commission. (1) The commission policy is that concession facilities should be operated under contract with private concessionaires wherever feasible.

(2) It is the desire of the commission to assure the concessionaire of the security of their investments in buildings, structures, and other improvements provided

by them on state owned or administered lands for the purposes of a concession contract to the fullest extent of the existing authority of the commission. Accordingly, while reserving in the state of Washington legal title to such buildings, structures, and other improvements, it shall be the policy of the commission to recognize that in order to encourage proper development and maintenance of a concession, it may be appropriate to grant possessory rights to concessionaires. [Order 7, § 352-24-040, filed 4/1/70.]

WAC 352-24-050 Definitions. (1) "Concessionaire's improvements," as used herein shall mean all buildings, fixtures, equipment, and other improvements or parts thereof placed upon lands assigned in the particular contract that have been erected or may be erected in the future with the commission's consent by the concessionaire.

(2) "State improvements," as used herein, shall mean all buildings, fixtures, equipment, and other improvements or parts thereof placed upon lands assigned in the particular contract, that have been erected or constructed with state finances.

(3) "Possessory interest," as used herein, shall mean all incidents of ownership, except the right to free transfer or mortgage and legal title, which title shall be vested in the state of Washington. "Possessory interest" shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of a structure, fixture, or improvement in which the concessionaire has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. A possessory interest shall not be extinguished by the expiration or other termination of the concession contract and may not be taken for public use or transferred to a successor without just compensation. The said possessory interest may be assigned, transferred, or relinquished prior to expiration or termination, but all such transactions shall require the written approval of the commission. A possessory interest may be used as collateral for a loan, but such a transaction shall require approval by the commission: *Provided*, That such approval will be deemed to have been given if the commission fails to act within forty days after being notified of the proposed transaction.

(4) "Just compensation," as used herein, shall mean an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the state or transfer to another party determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. [Order 7, § 352-24-050, filed 4/1/70.]

WAC 352-24-060 Abandonment or destruction of improvements. (1) In the event that a concessionaire's improvement is removed, abandoned, demolished, or substantially destroyed, and no other improvement is

constructed on the site, the concessionaire shall, promptly upon the request of the commission, restore the site as nearly as possible to a natural condition.

(2) Any salvage resulting from the removal, severance, or demolition of a concessionaire's improvements or any part thereof shall be the property of the concessionaire. [Order 7, § 352-24-060, filed 4/1/70.]

WAC 352-24-070 Compensation for concessionaire's possessory interest. (1) If for any reason the concessionaire shall cease to be authorized to conduct the operations authorized hereunder, or any of them, and thereafter such operations are to be conducted by a successor, whether a private person or an agency of the state, the concessionaire shall sell and transfer to the successor designated by the commission the possessory interest in concessionaire's improvements and all other property of the concessionaire used or held for use in connection with such operations; and the commission will require such successor, as a condition to the granting of a permit or contract to operate, to purchase from the concessionaire such possessory interest and other property, and to pay the concessionaire the just compensation therefor.

(2) If the commission shall determine that, during the term of the contract or upon its termination for any reason, it is in the public interest to discontinue the operations authorized thereunder, or any of them, and/or to abandon, remove, or demolish any of the concessionaire's improvements, then the commission will, before making such determination effective, request of the legislature appropriations sufficient to assure the concessionaire of just compensation for his possessory interest in such improvements, and receive such appropriations: *Provided*, That the just compensation to be paid to the concessionaire shall be diminished by any debts due from the concessionaire to the commission and any damage or nonperformance claims by the commission against the concessionaire. [Order 7, § 352-24-070, filed 4/1/70.]

WAC 352-24-080 Compensation to the state for improvements placed by the state. Private persons or corporations having concession or lease agreements with the commission at the time of adoption of this policy, may submit proposals to modify, renew, and extend the existing agreements to provide for such a possessory interest and may include in their proposals the acquisition from the state of such a possessory interest in state improvements, which are part of the outdoor recreation facilities of the area: *Provided*, That the price to be paid to the state shall be computed by the same formula as set forth above for determining just compensation to the private person or corporation. [Order 7, § 352-24-080, filed 4/1/70.]

WAC 352-24-090 General provisions. Before calling for a bid for a concession, franchise, or lease, a plan of operation, plans, specifications, and conditions shall be prepared by the commission in such a manner that all bidders will be bidding on an identical plan. [Order 7, § 352-24-090, filed 4/1/70.]

WAC 352-24-100 Bidding procedures. Insofar as practical, all concessions shall be granted on competitive bids and a formal sealed bid procedure shall be used as standard procedure: *Provided*, That sealed competitive bidding shall not be necessary for:

(1) An emergency, if such sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Concessions producing an annual gross revenue not exceeding \$500 but in all such concessions quotations shall be secured from enough vendors to assure establishment of a competitive price; and

(3) Concessions which are clearly and legitimately limited to a single source of supply or involving special facilities, services, or market conditions, in which instance the concession prices may be best established by direct negotiations. [Order 7, § 352-24-100, filed 4/1/70.]

WAC 352-24-110 Notification to bidder. Bids for concessions shall be solicited by public notice, and through the sending of notices by mail to bidders who shall have made application to the commission. Bids may be solicited from any source thought to be of advantage to the state. All bids shall be in writing and conform to rules of the commission. [Order 7, § 352-24-110, filed 4/1/70.]

WAC 352-24-120 The highest and best bid. Concessions granted through competitive bidding shall be let to the highest responsible bidder: *Provided*, That whenever there is reason to believe that the highest responsible bid is not the best bid obtainable, all bids may be rejected and the commission may call for new bids (or enter into direct negotiations to achieve a better bid). Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "highest responsible bidder," in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract. [Order 7, § 352-24-120, filed 4/1/70.]

WAC 352-24-130 Commission's acceptance. The commission may reject the bid of any bidder who has failed to meet any of the requirements of WAC 352-24-120 herein, and further reserves the right to reject all bids and consider the matter anew. [Order 7, § 352-24-130, filed 4/1/70.]

WAC 352-24-140 Bond requirement. When any bid has been accepted, the commission may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the commission, conditioned that he will fully, faithfully, and accurately execute the terms of the contract into which he has entered. The bond shall be filed in the office of the commission. Bidders who regularly do business with the commission shall be permitted to file with the commission an annual bid bond in an amount established by the commission and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids. [Order 7, § 352-24-140, filed 4/1/70.]

WAC 352-24-150 Transactions involving interest of concessionaire. Concessions, franchises, leases, and easements granted by the commission shall be assignable by the grantee thereof only if the commission gives written approval of the designated assignee. In order to better judge the acceptability of the designated assignee, the commission may require such background information as may be necessary. [Order 7, § 352-24-150, filed 4/1/70.]

WAC 352-24-160 Advertising. (1) Lessees using promotional and publicity material shall include a credit line in such material indicating the respective areas as part of the Washington state parks and recreation commission system. The credit line to read: Facility under lease, operated in conjunction with Washington state parks and recreation commission.

(2) All signing to be placed by concessionaires within the respective areas, whether advertising, or of whatever nature, shall require prior written approval of the commission. [Order 7, § 352-24-160, filed 4/1/70.]

WAC 352-24-170 Concessionaire's employees. (1) The concessionaire will agree to conduct his business in a manner so as to give efficient, safe, and courteous service to the public, and conform to all rules and regulations and orders relative to the operation of the park.

(2) The concessionaire shall not employ or retain in its service or permit to remain upon any of the premises provided under the respective contracts, any person found by the commission to have violated paragraph (1) above. [Order 7, § 352-24-170, filed 4/1/70.]

WAC 352-24-180 Anti-discrimination. Concessionaire shall not discriminate on the basis of race, color, religion, national origin, sex, or age (unless for bona fide occupational reasons) in the solicitation of applicants for employment, the hiring of employees, and the treatment of employees. Concessionaire shall not discriminate on the basis of race, color, religion or national origin in the dispensing of services and goods to the public. In any written contracts concessionaire shall make with suppliers of goods or services to concessionaire, the concessionaire shall insert the provisions of this paragraph so as to be applicable to the supplier. [Order 7, § 352-24-180, filed 4/1/70.]

WAC 352-24-190 Representation of commission endorsement. Neither concessionaire nor any of its shareholders or agents shall, in connection with raising any investment funds, represent to anyone that concessionaire has the endorsement, support, or approval of the state for any new development or new plan of action when no such endorsement, support or approval has been given in writing. [Order 7, § 352-24-190, filed 4/1/70.]

WAC 352-24-200 Sale of majority stock interest in corporation. The commission shall reserve the right of approval of any stock sale or transfer which, in its opinion, might result in a change in the management of any corporate concessionaire. [Order 7, § 352-24-200, filed 4/1/70.]

WAC 352-24-210 Approval of subconcession contracts. All contracts and agreements proposed to be entered into by the concessionaire with respect to the exercise by others of the privileges granted by the specific contract shall be submitted to the commission for approval prior to their effective date. [Order 7, § 352-24-210, filed 4/1/70.]

WAC 352-24-220 Violation of lease. The director shall, where a concessionaire is in violation of his lease, be directed to prepare and properly serve notice of intention to forfeit said lease: *Provided*, That no action shall be taken upon the actual forfeiture until the next regular meeting of the commission and after majority vote of the commission. [Order 7, § 352-24-220, filed 4/1/70.]

WAC 352-24-230 Preferential right. (1) The commission recognizes the investments of existing concessionaires in their concessions. Therefore, in the event existing concessionaires have performed in a manner satisfactory to the state, they shall have a preferential right to:

(a) Continue the existing concession when the concession contract expires, and,

(b) Undertake any construction or operation of any new accommodations or facilities desired by the commission.

(2) The commission also recognizes that an existing concessionaire may be unwilling or unable to construct or operate new accommodations or facilities. Therefore, the commission shall reserve the right either, on its own, or through a new concessionaire, to construct or operate new accommodations or facilities. [Order 7, § 352-24-230, filed 4/1/70.]

WAC 352-24-240 Insurance requirement. (1) The concessionaire shall at the direction of the commission carry reasonable insurance on concessionaire or state properties against losses by fire, windstorm, or other hazards.

(2) Concessionaire shall maintain policies of public liability insurance in such amounts as the commission may require to protect the state from claims of injury or

damage arising from concessionaire's operations. Concessionaire shall hold the state free and clear of all such claims.

(3) When directed to do so, concessionaire will file certified copies of insurance policies required under this paragraph with the commission. [Order 7, § 352-24-240, filed 4/1/70.]

WAC 352-24-250 Contract, franchise, or lease fees.

(1) It shall be the policy of the commission that fees be commensurate with

(a) The value to the concessionaire of the opportunity granted to them to do business within the areas administered by the commission; and

(b) The services and facilities furnished by the state for which no separate fee is charged. Accordingly, as a general policy, fees will be based on percentage of gross revenues.

(2) Since concession operations vary greatly in size, location, seasons, and other pertinent respects, the commission will, however, negotiate fee provisions differing from that mentioned above, when circumstances justify such action.

(3) When contract parties fail to reach agreement on contract fees in process of renegotiation, the matter will be submitted to arbitration as provided below. [Order 7, § 352-24-250, filed 4/1/70.]

WAC 352-24-260 Audits, accounting records and reports.

(1) The concessionaire shall be required to maintain such permanent books of account and records, including inventories, as may be prescribed by the commission, and as are sufficient to show specifically the item of gross income and expense, receipts and disbursements, and such other information as will correctly reflect the financial condition and results of operations. The books and records as required shall be kept available at all reasonable times for inspection by the commission or its authorized representative.

(2) It shall be the policy of the commission to audit and inspect the concessionaire's books and records in order to protect the public interest. The commission recognizes that only through adequate audits and inspections, can data on the financial condition and the results of a concessionaire's operations be determined. Such data is recognized as essential in planning for expansion of facilities and services with concessionaires and carrying out the principle of providing a maximum of services to the public at a minimum of cost.

(3) The commission may require an audit of the concessionaire's books by an authorized public accountant whenever the commission has determined there is reasonable cause therefor. If such audit shows a variation of 10 percent the concessionaire must pay for the audit if he is to continue his lease, if less than 10 percent the cost of the audit to be borne by the state parks and recreation commission. Copies of the certified public accounting audit report shall be made available to the commission. [Order 7, § 352-24-260, filed 4/1/70.]

WAC 352-24-270 Provision for arbitration. Whenever the concessionaire and a successor, or the concessionaire and the commission, cannot agree on what just compensation for the concessionaire's possessory interest according to WAC 352-24-050(3) may be, or whenever the concessionaire and the commission cannot agree on the fees to be paid the commission by the concessionaire, or whenever the existing concessionaire and new concessionaire cannot agree, or whenever the concessionaire and the commission cannot agree on any matter pertaining to the concession contract, the matter at issue shall be submitted to arbitration and such arbitration shall be binding. Each party to the dispute will appoint one arbitrator who together will choose a third arbitrator. The arbitration shall be governed by the State Arbitration Act, contained in chapter 7.04 RCW. [Order 7, § 352-24-270, filed 4/1/70.]

WAC 352-24-280 Temporary concession permits. (1) In consideration of a need in certain park areas for the occasional and temporary provision of goods and/or services to the public to enhance their recreational experience, it shall be the policy of the commission to permit the temporary selling of approved goods and/or services to the public by private concessionaires.

(2) The director of the Washington state parks and recreation commission may, when a need for temporary concession services be evident, negotiate and grant such temporary concession permits as are necessary to provide adequate, temporary service to the public under such conditions as are necessary to protect the public, the park features, and facilities, and the interest of established concessionaires, such temporary concession permits not to exceed seven days. [Order 7, § 352-24-280, filed 4/1/70.]

Chapter 352-28 WAC TIMBER CUTTING AND SALES

WAC

352-28-010 Timber cutting criteria.
352-28-020 Timber sales.

WAC 352-28-010 Timber cutting criteria. (1) **Significant trees:** Significant trees in any area under the jurisdiction and/or management of the commission shall not be cut without the written approval of the director or his designated representative. Significant trees shall be considered as those of outstanding shade tree quality and/or of commercial value measured either singly or collectively as a stand of timber.

(2) **Cutting criteria:** Trees (or other flora) may be cut and/or removed from said areas for the following reasons only:

(a) Area clearing necessary for approved park maintenance, improvement, and/or development projects.

(b) Correction of conditions hazardous to persons, properties, and/or facilities.

(c) Timber stand improvement and/or protection including thinning, removal of weed species, fire lane

clearing and abatement of forest diseases and infestations.

(d) Salvage of merchantable forest products that are in a condition inconsistent with and/or detrimental to park utility. [Order 7, § 352-28-010, filed 4/1/70.]

WAC 352-28-020 Timber sales. (1) **Qualification for sale of forest products:**

(a) The merchantable product must qualify for removal under WAC 352-28-010.

(b) There must be sufficient merchantable volume involved to offset the amount of restriction and liability necessarily imposed on logging contractors to safeguard park features and public and private interests.

(2) **Procedures and general provisions:**

(a) Sales shall be conducted by the director or his designated representative.

(b) Sales shall be granted on the basis of competitive, sealed bids and it shall be required that at least three qualified buyers be invited to bid. Reasonable efforts shall be made to invite bids from prospective buyers operating or living in or near the general location of the sale; except that normally unmerchantable volumes of timber to be removed for park purposes may be sold by direct negotiation with a single buyer as approved by the commission, also, except that timber may be sold by direct negotiation where one buyer is clearly concerned as in timber sold to a right of way or easement purchaser as an integral part of said purchase.

(c) Except where one buyer only is clearly concerned, all sales shall be granted on the basis of the highest bid from a responsible qualified bidder. Any bid may be rejected if the prospective buyer is deemed unqualified. To qualify for bidding, a buyer must be of good character and reputation with demonstrated abilities and capacities sufficient to perform the contract and must not have failed to perform satisfactorily on any previous forest products sale contract with the state.

(d) Bids and sales shall be based on a return to the state of a percentage of the gross sale price of the forest products involved; except where sold by direct negotiation with a single buyer as described in WAC 352-28-020 (2)(b) above. In such exceptions, cash payment shall be required of the buyer in the amount of fair market stumpage value, considering offsetting mutual benefits if applicable, or at the commission's discretion, considering a sum to offset aesthetic loss to the state up to a maximum value equal to the best full current local market price at point of delivery of the harvested product, as determined by the director or his designated representative.

(e) All sales shall require sufficient liability and property damage insurance and also sufficient surety bonding by the buyers to insure protection of the state and satisfactory contract compliance and completion.

(f) All sales, excluding timber sales in state parks that have no potential for significant adverse impact on the environment, shall require approval by a majority of the commission and contract validation by the director or his designated representative.

(g) All sales shall require authorization by the state of Washington, department of general administration, division of purchasing as provided in RCW 43.19.1919 and/or as hereafter modified, amended or rescinded; also, all sales shall be granted, subject to approval of any governing agency as may be required by legal condition of land title and/or timber ownership and/or by state or federal statute.

(h) All contracts shall be of a form approved by the attorney general. [Order 26, § 352-28-020, filed 6/16/76; Order 7, § 352-28-020, filed 4/1/70.]

No. 70), filed 6/17/83. Statutory Authority: RCW 43.51.040 and 43.51.060.

WAC 352-32-010 Definitions. Whenever used in this chapter the following terms shall be defined as herein indicated:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170 and WAC 352-32-020, and shall include the park manager in charge of any state park area.

(4) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(5) "Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

(6) "Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal and flush comfort station. Each campsite includes a camp stove and picnic table.

(7) "Utility campsite" shall mean a standard campsite with the addition of one or all of the following utility hookups: Domestic water, sewer and electricity.

(8) "Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

(9) "Camping" shall mean erecting a tent or shelter or arranging bedding, or both, for the purpose of, or in such a way as will permit remaining overnight, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(10) "Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

(11) "Emergency area" is an area in a park which can be used for camping but is not part of the designated overnight camping area.

(12) "State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020.

(13) "Environmental learning centers (ELC)" shall mean those designated specialized facilities (formerly called resident group camps) designed to promote outdoor camping experiences and environmental education by groups in a residential setting. A group can be formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are located at Camp Wooten, Columbia County; Brooks Memorial State

Chapter 352-32 WAC

PUBLIC USE OF STATE PARK AREAS

WAC

352-32-010	Definitions.
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352-32-270	Sno-park permit—Fee.
352-32-280	Applicability of standard fees.
352-32-285	Applicability of standard fees to volunteers in parks.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

352-32-020	Police powers granted to certain employees. [Order 35, § 352-32-020, filed 7/29/77; Order 9, § 352-32-020, filed 11/24/70.] Repealed by 82-07-076 (Order 56), filed 3/23/82. Statutory Authority: RCW 43.51.040.
352-32-160	Religious services or group rallies. [Order 9, § 352-32-160, filed 11/24/70.] Repealed by 83-08-032 (Resolution No. 66), filed 3/31/83. Statutory Authority: RCW 43.51.040 and 43.51.060.
352-32-190	Solicitation. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-08-032 (Resolution No. 66), § 352-32-190, filed 3/31/83; Order 9, § 352-32-190, filed 11/24/70.] Repealed by 83-13-089 (Resolution

Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County. [Statutory Authority: RCW 43.51.040 and 43.51.060. 81-09-034 (Order 50), § 352-32-010, filed 4/14/81. Statutory Authority: RCW 43.51.040. 80-14-009 (Order 48), § 352-32-010, filed 9/22/80. Statutory Authority: RCW 43.51.040 and 43.51.060. 80-05-007 (Order 45), § 352-32-010, filed 4/4/80; Order 9, § 352-32-010, filed 11/24/70.]

WAC 352-32-030 Camping. (1) No person shall camp in any state park area except in areas specifically designated and/or marked for that purpose or as directed by a ranger.

(2) Occupants shall vacate camping facilities by removing their personal property therefrom prior to 3:00 p.m., (or other appropriate, established time in parks where camping is reserved) if the applicable camping fee has not been paid or if the time limit for occupancy of the campsite has expired or the site is reserved by another party. Remaining in a campsite beyond the established checkout time shall subject the occupant to the payment of an additional camping fee.

(3) No tent camper shall be allowed to occupy a designated utility campsite except as directed by a ranger. Use of utility campsites by tent campers shall be subject to payment of the utility campsite fee except when directed by a ranger to occupy a utility campsite.

(4) A campsite is considered occupied when it is being used for purposes of camping by a person or persons who have paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system. No person shall take or attempt to take possession of a campsite when it is being occupied by another party, or when informed by a ranger that such site is occupied, or when the site is posted with a "reserved" sign. In the case of a reserved site, a person holding a valid reservation for that specific site may occupy it according to the rules relating to the reservation system for that park.

(5) In order to afford the general public the greatest possible use of the state park system, on a fair and equal basis, continuous occupancy of facilities by the same person shall be limited to ten consecutive nights in one park. This limitation shall not apply to those individuals who meet the qualifications of WAC 352-32-280 and 352-32-285.

(6) Only one camping unit with a maximum of eight people shall be permitted at a campsite, unless otherwise authorized by a ranger. The number of vehicles occupying a campsite shall be limited to one car or one recreational vehicle: *Provided*, That one additional vehicle without built-in sleeping accommodations may occupy a designated campsite when in the judgment of a ranger the constructed facilities so warrant.

(7) Persons traveling by bicycles, motor bikes or other similar modes of transportation and utilizing campsites shall be limited to six persons per site.

(8) All persons camping in organized groups shall use designated group camp areas unless otherwise directed by a ranger and shall pay the applicable group camping fee.

A group can be any formalized group or an organized collection of families wishing to camp together.

Group camping areas may be reserved in advance through contact with the local ranger. Any group must have a leader who has reached the age of majority who will be required to read and sign a "Group use permit and regulation form."

(9) Emergency camping areas set aside in certain state parks may be used only when all designated campsites are full but may not be used prior to 9:00 p.m. Persons using emergency areas must pay the standard campsite fee and must vacate the site by 8:00 the following morning. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-09-031 (Resolution No. 67), § 352-32-030, filed 4/15/83; 82-09-035 (Order 60), § 352-32-030, filed 4/14/82; 81-09-034 (Order 50), § 352-32-030, filed 4/14/81; 80-05-007 (Order 45), § 352-32-030, filed 4/4/80. Statutory Authority: RCW 43.51.040(2) and 43.51.060(6). 78-05-082 (Order 39), § 352-32-030, filed 5/1/78; Order 33, § 352-32-030, filed 4/28/77; Order 9, § 352-32-030, filed 11/24/70.]

WAC 352-32-035 Campsite reservation. (1) Advance campsite reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day.

(3) Requests for reservations may be made in writing and must be postmarked a minimum of 14 days in advance. Reservations may be made in person, at the park where camping is to occur, up to 24 hours in advance of the first camping day requested. Written requests may be made from the second Monday in January and up to 14 days in advance of Labor Day.

(4) Reservation requests can only be made for camping dates within the current calendar year.

(5) There will be a \$2.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard campsite fee, regardless of the number of days reserved. Payment of the \$2.00 nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

(6) Recreation, camping and reservation information may be obtained by calling the campsite information center on the toll-free telephone number established for that purpose. No reservation may be made by telephone.

(7) No individual may reserve a campsite in more than one state park, for one or more of the same days.

(8) Reservations for a specific campsite within a park will not be guaranteed.

(9) Unreserved campsites may be used for one night at a time on a first-come-first-served basis without a reservation.

(10) A raincheck will be issued for the camping fee paid for any confirmed reservation which is not used, provided a cancellation request is made by calling the campsite information center or the park in which the site is reserved, no less than 24 hours in advance of the first day of the reservation, or in writing to the park, post-marked seven days in advance of the first day of the reservation. Rainchecks will only be valid in the calendar year in which they are issued. In lieu of payment, for the first night's camping fee they may accompany the reservation request for which they are to be used.

(11) Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation is not claimed by 6 p.m. on Sunday through Thursday, or 9 p.m. [on] Friday, Saturday, and the night before a holiday. After these hours your site may be reassigned unless specific arrangements are made with the park to arrive later.

(12) For the 1981 season, reservations will be accepted beginning June 1 for the period beginning July 1 through Labor Day. [Statutory Authority: RCW 43.51-.040 and 43.51.060. 81-12-014 (Order 52), § 352-32-035, filed 5/28/81; 80-05-006 (Order 44), § 352-32-035, filed 4/4/80.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 352-32-036 Environmental learning centers.

(1) Use of all environmental learning centers (ELCs) shall be by reservation only. From Memorial Day to Labor Day, inclusive, any group may reserve an ELC. The remainder of the year, ELCs may be reserved by schools or school districts on a priority basis Monday through Friday, except on legal holidays, and by any group on holidays and weekends. Reservations may be made for overnight or day use by following the reservation procedure provided for in this chapter. Priority of scheduling shall be as provided for herein.

(2) ELC use will be allowed only with an official, nontransferable permit, which will be provided with confirmation of reservation. Permits are revokable for failure, or refusal to fulfill or abide by permit requirements, regulations pertaining to ELC use or regulations pertaining to use of state parks in general, all of which are applicable to ELC use.

(3) All fees and charges for ELC use are due and payable at the conclusion of the use period. Payment shall be made to the park manager of the state park area where the ELC is located (hereinafter referred to as ELC manager), and shall be made by cash, check or money order made payable to Washington state treasurer.

(4) Each ELC user group shall provide a full time camp director, who shall have attained the age of majority. Camp directors shall be responsible for all activities of the group. The camp director shall maintain all required records, including daily camper attendance as required, and shall be responsible for insuring proper

payment of all fees and charges incurred as a result of the use of the ELC. The camp director shall advise the ELC manager as soon as practicable of any accidents occurring to any member of the group and of any damage occurring to state-owned property.

(5) Each ELC user group shall obtain and display all required health permits, and shall maintain all applicable health standards as set forth in the Washington state department of social and health services, division of health service rules and regulations.

(6) No ELC or ELC sleeping quarter may be used by more than the number of persons designated in the rated capacity for the facility. Information on ELC capacities may be obtained from the ELC manager, or from the ELC Reservation Office, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504.

(7) The ELC manager shall have the authority to restrict the use of buildings or areas within the ELC when, in his or her sole discretion, it is determined that such use could be detrimental to the health or safety of the users or others.

(8) Recreation vehicles and tents may be allowed in ELC areas with the permission of the ELC manager.

(9) Motor vehicles may be driven only in authorized areas, and may be parked only in specified parking areas. Only in case of an emergency will motor vehicles be allowed on service roads or within cabin areas. Posted speed limits shall be observed at all times.

(10) Outdoor fires are permitted in approved, designated areas only. No fire is to be left unattended.

(11) No pets are allowed in an ELC area, except as specifically authorized by the ELC manager. [Statutory Authority: RCW 43.51.040. 80-14-009 (Order 48), § 352-32-036, filed 9/22/80.]

WAC 352-32-037 Reservations for environmental learning centers.

(1) All reservations for ELC use are to be made through the ELC Reservation Office, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504, except for reservations for schools and school districts for weekdays, excepting legal holidays, during the period the day after Labor Day until the day before Memorial Day. In the latter case, reservations are to be made and coordinated through the office of the superintendent of public instruction. Applications for all other reservations shall be in writing indicating dates and ELC desired on a form provided by the ELC reservation office.

(2) Applications for overnight use of an ELC by any user group, for a maximum of seven consecutive days, during the period from Memorial Day to Labor Day, inclusive (summer season), should be filed with the ELC reservation office by September 1st of the year next preceding the summer season for which the reservation application is made. Applications submitted prior to September 1 will not be accepted for other than the upcoming summer season. As many applications as are desired may be filed, so long as in the aggregate they do not constitute a request by any one group to use a given ELC for longer than seven consecutive days. The seven

consecutive day limitation shall apply in all cases, except where prior existing contract with the state specifies otherwise or after filling initial requests for up to seven days from all groups requesting reservations, space remains available. Applications thus submitted by September 1 will be confirmed (and a permit issued) or denied by the following October 31st. The ELC reservation office may schedule and conduct meetings during the period September 1 to October 31st for those requesting at the various ELCs to coordinate scheduling and confirm reservations using (b) through (d) below, in order, to set confirmation priorities.

In the event of more than one application for the same dates and ELC, the following priorities, in order, shall be observed:

(a) The group which does not already have a confirmed reservation for the ELC.

(b) The group which has utilized the ELC for the greatest number of consecutive preceding years immediately prior to the year presently being scheduled.

(c) The group which has utilized the ELC the greatest number of previous years.

(d) The group which has utilized the ELC the greatest number of times (during the summer months).

Applications received after September 1 will be considered on a space available basis using the prioritization process.

(3) Applications for overnight use of an ELC on holidays and weekends during other than the summer season may be made at any time up to 12 months in advance of the dates requested, and will be confirmed on a first-come-first-served basis.

(4) Applications for day use of an ELC during the summer season, or on holidays and weekends during other than the summer season, may be submitted at any time, but will not be confirmed any sooner than two weeks prior to the requested dates. Assignments will be made on a first-come-first-served basis.

(5) A deposit of \$25, up to a maximum of \$150, for each day of requested ELC use is required to be submitted with the reservation application form. Deposits must be made by check or money order, made payable to the Washington state treasurer, and should indicate on their face the name of the user group and requested ELC. Deposits will be applied toward final camp fees incurred, or will be returned if no confirmation is made.

(6) Cancellation by user of any confirmed reservation must reach the ELC reservation office 60 days prior to the scheduled arrival date as stated on the application or permit, or the deposit will be forfeited. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-09-031 (Resolution No. 67), § 352-32-037, filed 4/15/83. Statutory Authority: RCW 43.51.040. 80-14-009 (Order 48), § 352-32-037, filed 9/22/80.]

WAC 352-32-040 Picnicking. Picnicking is permitted only in designated and marked picnicking areas, or in such other places within a state park area as may from time to time be designated by a ranger. [Order 9, § 352-32-040, filed 11/24/70.]

WAC 352-32-045 Reservations for group day use.

(1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A permit fee of ten dollars shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict

with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-09-031 (Resolution No. 67), § 352-32-045, filed 4/15/83; 82-09-035 (Order 60), § 352-32-045, filed 4/14/82; 80-05-007 (Order 45), § 352-32-045, filed 4/4/80; Order 32, § 352-32-045, filed 4/28/77.]

WAC 352-32-050 Park periods. (1) The director shall establish for each state park area, according to existing conditions, times, and periods when it will be open or closed to the public. Such times and periods shall be posted at the entrance to the state park area affected and at the park office. No person shall enter or be present in a state park area after closing time except when camping, in a designated campsite or camping area, who has paid the applicable camping fee; as a state parks employee; or as a guest of a state parks employee.

(2) The director may establish for each state park area according to facilities, design, and/or staffing levels, the number of individuals and/or vehicles allowed in any state park area or structure at any given time or period. No person shall enter in any state park area or facility or bring in or cause to be brought in any vehicle and/or persons which would exceed the capacity as established by the director and when the individual is informed either by signs or by park staff that such capacity has been met and the park is full. [Statutory Authority: RCW 43.51.040 and 43.51.060. 80-05-007 (Order 45), § 352-32-050, filed 4/4/80; Order 21, § 352-32-050, filed 3/20/75; Order 9, § 352-32-050, filed 11/24/70.]

WAC 352-32-060 Pets. (1) All dogs or other pets or domestic animals must be kept on leash no greater than eight feet in length, and under control at all times while in a state parks area.

(2) Dogs, pets, or domestic animals are not permitted on any designated swimming beach in any state parks area, nor in any public building unless so posted: *Provided*, That this subsection shall not apply to guide dogs.

(3) No person shall allow his dog or other pet or domestic animal to bite or in any way molest or annoy other park visitors. No person shall permit his dog or other pet or domestic animal to bark or otherwise disturb the peace and tranquillity of the park.

(4) Any person bringing a dog into a state park area shall dispose of any feces deposited by the dog, by placing the feces in a plastic or paper sack. The sack shall then be deposited in a solid waste container. [Statutory Authority: RCW 43.51.040. 82-12-008 (Order 61), § 352-32-060, filed 5/21/82; Order 9, § 352-32-060, filed 11/24/70.]

WAC 352-32-070 Horseback riding. (1) No horses shall be permitted in any state parks area, except where designated and posted to specifically permit such activity.

(2) Horses shall not be permitted on any designated swimming area, campground or picnic area.

(3) No person shall ride any horse or other animal in such a manner that might endanger life or limb of any person or animal, and no person shall allow a horse or other animal to stand unattended or insecurely tied. [Order 9, § 352-32-070, filed 11/24/70.]

WAC 352-32-080 Swimming. (1) Swimming areas in state park areas are marked with buoys, log booms, or other markers, clearly designating the boundaries of such areas. Swimming shall be permitted only within these areas.

(2) Any person swimming outside the boundaries of a designated swimming area, or in any area not designated for swimming, or in any area, whether designated for swimming or not, where no lifeguard is present, shall do so at his or her own risk.

(3) All persons using any designated swimming area shall obey all posted beach rules and/or the instructions of lifeguards, rangers, or other state parks employees.

(4) No person shall swim or sunbathe in any designated boat launching area.

(5) No person shall give or transmit a false signal or false alarm of drowning in any manner.

(6) Use of inflated mattresses, rubber rafts, rubber boats, inner tubes, or other objects, except U.S. Coast Guard approved life jackets, in state park areas for the purpose of buoyancy while swimming or playing in any designated swimming area is prohibited. Concessionaires are not permitted to rent or sell such floating devices within state parks without written approval of the commission. [Order 10, § 352-32-080, filed 8/3/71; Order 9, § 352-32-080, filed 11/24/70.]

WAC 352-32-090 Games on beaches. Playing games and general horseplay on crowded swimming beaches is prohibited. At times large uncrowded beach areas can safely permit some games. Such games will be permitted only with the consent of a ranger. [Order 9, § 352-32-090, filed 11/24/70.]

WAC 352-32-100 Disrobing. (1) No person shall disrobe in public in any state park area.

(2) Clothing sufficient to conform to common standards shall be worn at all times. [Order 9, § 352-32-090, filed 11/24/70.]

WAC 352-32-110 Tents, etc., on beaches. No person shall erect, maintain, use, or occupy any temporary tent or shelter on any swimming beach in any state park area unless there is an unobstructed view through such tent or shelter from at least two sides: *Provided, however*, That nothing herein contained shall be construed to authorize camping except in designated areas. [Order 9, § 352-32-110, filed 11/24/70.]

WAC 352-32-120 Firearms. No person shall possess a firearm with a cartridge in any portion of the mechanism; nor shall any person discharge across, in, or into any state park area a firearm, bow and arrow, or air

or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property, except where the commission for good cause has authorized a special recreational activity upon finding that it is not inconsistent with state parks use. [Order 9, § 352-32-120, filed 11/24/70.]

WAC 352-32-130 Aircraft. No aircraft shall land on or take off from any body of water or land area in a state park area not specifically designated for landing aircraft. [Order 9, § 352-32-130, filed 11/24/70.]

WAC 352-32-140 Fireworks. No person shall possess, discharge, set off, or cause to be discharged, in or into any state park area, any firecrackers, torpedoes, rockets, fireworks, explosives, or substance harmful to the life or safety of persons or property. [Order 9, § 352-32-140, filed 11/24/70.]

WAC 352-32-150 Fishing. (1) All laws, rules, and regulations of the state game commission relating to season, limits, and methods of fishing are applicable to fishing for game fish in state park areas. No person may fish for, or possess any fish taken from any dam, dike, bridge, dock, boat landing, or beach, which is conspicuously posted with a sign prohibiting fishing.

(2) All laws, rules, and regulations of the state department of fisheries relating to season, limits, and methods of taking are applicable to the taking of shellfish or food fish in state park areas, except that, in addition to such laws, the Washington state parks and recreation commission may, upon its finding and for good cause, close certain state park beaches for specified periods of time, to the taking of shellfish. Such closed areas shall be posted with appropriate signs.

(3) No person shall remove or cause to be removed any sea life from any state park beaches except for edible varieties as defined by the department of fisheries. [Order 19, § 352-32-150, filed 2/1/74; Order 9, § 352-32-150, filed 11/24/70.]

WAC 352-32-165 Public assemblies, meetings. (1) Public meetings, assemblies, rallies, gatherings, demonstrations, vigils, picketing, speechmaking, marches, parades, religious services and other public expressions of views are permitted in state park areas on grounds which are open to the public generally, provided a permit therefor has been issued as herein provided.

(2) An application for such a permit may be submitted on such forms as may be provided by the commission, or in any written form so long as the permit application sets forth the following:

(a) Name, address and phone number of the applicant;

(b) Date, time, duration, nature and place of the proposed event;

(c) Estimate of the number of persons expected to attend;

(d) Special equipment, including temporary structures such as speakers' stands, platforms, lecterns, chairs,

benches or the like, and any sound amplification equipment to be used in connection with the event;

(e) Special facilities, including emergency first aid, additional sanitation and refuse collection facilities, to be used in connection with the event;

(f) Crowd control to be provided by the event sponsor;

(g) Designation of a responsible contact individual with whom park officials may coordinate event activities, plans and preparations.

(3) The equipment and facilities referenced in subsections (2)(d) and (e), above, are to be provided by the event sponsor, unless other mutually satisfactory arrangements are made to use locally available commission owned equipment and facilities.

(4) Permit applications, along with a \$10.00 nonrefundable permit fee, are to be submitted to the park manager of the park where the event is proposed to take place at least thirty days in advance of the proposed event.

(5) The park manager, or his or her region supervisor, may issue a permit consistent with the application, or otherwise modified in a manner which is acceptable to the applicant. If a permit is not so issued, the application will be forwarded to the director for consideration. The director will issue a permit on proper application unless:

(a) A prior application for the same time and place has been made which has been or will be granted; or

(b) The event will present a clear and present danger to the public health or safety; or

(c) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area applied for.

(6) All permit applications submitted in accordance with subsections (2) and (4), above, shall be deemed granted if not denied or otherwise conditioned or limited as herein specified, and the applicant advised of such action by written notification mailed, first-class postage prepaid, within ten working days of receipt of the application. All other permit applications shall require written or verbal approval of the director, region supervisor or park manager. All permit denials will be in writing, will contain a statement of the specific reasons for the denial, and will advise the applicants of the right to request judicial review of the denial as provided in subsection (8), below.

(7) A permit issued by the director may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is maintained. It may also contain reasonable limitations on the time and area within which the event is permitted.

(8) Applicants whose permit application is denied may in writing request that the commission seek judicial review of the denial, in which event the commission shall timely seek a declaratory judgment pursuant to the Uniform Declaratory Judgment Act, chapter 7.24 RCW, and Superior Court Rule 57, in the superior court for Thurston County. Such requests shall be mailed, or otherwise delivered to the Director, Washington State Parks and Recreation Commission, 7150 Cleanwater

Lane, Olympia, Washington 98504. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-08-032 (Resolution No. 66), § 352-32-165, filed 3/31/83.]

WAC 352-32-170 Rubbish. (1) No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes, waste paper, cans, or other rubbish, in a state park area, except in a garbage can or other receptacle designated for such purposes.

(2) No person shall deposit any household or commercial garbage, refuse, waste, or rubbish, which is brought as such from any private property, in any state park area garbage can or other receptacle designed for such purpose. [Order 9, § 352-32-170, filed 11/24/70.]

WAC 352-32-180 Sanitation. No person shall, in any state park area:

(1) Drain or dump refuse or waste from any trailer, camper, automobile, or other vehicle, except in designated disposal areas or receptacles.

(2) Clean fish or other food, or wash any clothing or other article for personal or household use, or any dog or other animal, except at designated areas.

(3) Clean or wash any automobile or other vehicle except in areas specifically for that use.

(4) Pollute, or in any way contaminate by dumping or otherwise depositing therein any waste or refuse of any nature, kind, or description, including human or animal bodily waste, any stream, river, lake, or other body of water running in, through, or adjacent to, any state park area. [Order 9, § 352-32-180, filed 11/24/70.]

WAC 352-32-195 Solicitation. Except as may be otherwise allowed in connection with a permit issued under WAC 352-32-165, no person shall engage in commercial solicitation, or sell or peddle any goods, wares, merchandise, liquids, or edibles for human consumption in any state park area, except by concession granted by the commission. [Statutory Authority: RCW 43.51.040 and 43.51.060. 83-13-089 (Resolution No. 70), § 352-32-195, filed 6/17/83.]

WAC 352-32-200 Penalties. In addition to the penalty provided in RCW 43.51.180, or any other existing or future law of the state of Washington, failure to comply with any section of this chapter, or of any other chapter of this title, or any other rule or regulation of the commission, or with any other federal, state, or local law, rule, or regulation applicable under the circumstances, shall subject the person so failing to comply to ejection from any state park area. [Order 9, § 352-32-200, filed 11/24/70.]

WAC 352-32-210 Consumption of alcohol in state park areas. (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park area shall be prohibited except in the following designated areas and under the following circumstances:

(a) In designated campgrounds, by registered campers or their guests;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas; and

(c) In any building operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 43.51.655.

(3) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park shall be prohibited. [Statutory Authority: RCW 43.51.040(3). 81-24-020 (Order 55), § 352-32-210, filed 11/24/81; Order 17, § 352-32-210, filed 2/1/74; Order 11, § 352-32-210, filed 7/29/71.]

WAC 352-32-220 Intoxication in state park areas. Being or remaining in, or loitering about in any state park area while in a state of intoxication shall be prohibited. [Order 11, § 352-32-220, filed 7/29/71.]

WAC 352-32-230 Food and beverage containers on swimming beaches. (1) The use or possession of any food or beverage container consisting wholly or in part of glass or metal is prohibited on any beach within any state park area, where such beach is designated as a swimming area, or where such beach is customarily and generally used as a swimming area by park patrons though not designated as such.

(2) The provisions of this rule shall not apply to any portion of the seashore conservation area as designated and established by RCW 43.51.655. [Order 11, § 352-32-230, filed 7/29/71.]

WAC 352-32-240 Nondiscrimination certification. (1) This is to certify that the Washington state parks and recreation commission is an equal opportunity employer, and that no person in the United States is denied the benefits of full and equal enjoyment of the right of employment or any goods, services, facilities, privileges, advantages, and accommodations of, or on any property administered by the Washington state parks and recreation commission because of race, creed, color, age, sex, national origin, or physical disability.

(2) The provisions of this certification shall apply to all contractors, lessees, licensees, and concessionaires operating under any legal instrument issued by the Washington state parks and recreation commission, as well as areas operated by the Washington state parks and recreation commission itself. [Order 27, § 352-32-240, filed 9/23/76.]

WAC 352-32-250 Standard fees charged. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping – standard campsite: \$5.50 per night;

(2) Overnight camping – utility campsite: \$5.50 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not;

(3) Overnight camping – primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.00 per night for motorized vehicle;

(4) Overnight camping – reservation fee: As specified in WAC 352-32-035;

(5) Group camping area – certain parks: \$.35 per person per night; nonrefundable reservation fee – \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(6) Environmental learning center – overnight camping: \$2.50 per camper per night: *Provided, however,* The fee shall be \$2.85 per camper per night, effective September 6, 1983;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: \$2.90 per camper per night: *Provided, however,* The fee shall be \$3.25 per camper per night, effective September 6, 1983;

(b) Environmental learning center – day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group – whichever is higher;

(7) Hot showers: \$.25 for a minimum of six minutes shower time;

(8) Electric stoves: \$.25 for thirty minutes cooking time;

(9) Adirondacks – not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(10) Extra vehicle charge: \$2.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: *Provided,* An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(11) Marine park moorage facilities – see WAC 352-12-020 and 352-12-030.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended. [Statutory Authority: RCW 43.51-.055 and 43.51.060. 83-23-094 (Order 71), § 352-32-250, filed 11/22/83. Statutory Authority: RCW 43.51-.040 and 43.51.060. 83-09-031 (Resolution No. 67), § 352-32-250, filed 4/15/83; 82-15-059 (Order 62), § 352-32-250, filed 7/20/82; 82-09-035 (Order 60), § 352-32-250, filed 4/14/82; 81-09-034 (Order 50), § 352-32-250, filed 4/14/81; 80-05-007 (Order 45), § 352-32-250, filed 4/4/80. Statutory Authority: RCW

43.51.040(2) and 43.51.060(6). 79-09-077 (Order 42), § 352-32-250, filed 8/30/79, effective 10/1/79; 79-02-032 (Order 41), § 352-32-250, filed 1/23/79, effective 5/1/79; 78-05-082 (Order 39), § 352-32-250, filed 5/1/78; Order 36, § 352-32-050 (codified as WAC 352-32-250), filed 10/11/77; Order 27, § 352-32-250, filed 11/19/76.]

WAC 352-32-251 Limited income senior citizen, disability, and veteran disability passes. (1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an annual limited income senior citizen pass at no charge which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to a fifty percent reduction in any campsite fees levied by the commission.

(b) Applications for limited income senior citizen passes shall be accepted only after November 30 for the following year.

(2) Persons who are permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a five year disability pass at no charge and other disabled persons who meet the eligibility requirements of RCW 43.51.055 and have been residents of Washington state for at least one year shall, upon application to the commission, receive a one year disability pass which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to a fifty percent reduction in any campsite fees levied by the commission.

(3) Persons who are veterans, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a lifetime veteran disability pass at no charge which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to free use of any state park campsite.

(4) Applications for limited income senior citizen, disability, and veteran disability passes shall be made on forms prescribed by the commission.

(5) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area when in the judgment of a ranger the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

(6) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite

or portion of a designated group camping or emergency area.

(7) If the conditions of a pass holder change during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 43.51.055 and WAC 352-32-251, then a pass holder shall return a pass to the commission. [Statutory Authority: RCW 43.51.055 and 43.51.060. 83-23-094 (Order 71), § 352-32-251, filed 11/22/83.]

WAC 352-32-252 Off season senior citizen pass—Fee. (1) Persons who are senior citizens, are at least sixty-two years of age, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an off-season citizen pass which entitles the holder and the holder's camping unit to thirty nights of camping at any camping areas made available by the commission between September 15 and April 30. Each such pass shall be valid only during one off-season period and may be renewed after being used for thirty nights of camping.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after September 1 for the following off-season period.

(3) The fee for each off-season senior citizen pass and renewal shall be \$12.00. A surcharge equal to the fee for an electrical hookup established in WAC 352-32-250 shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area when in the judgment of a ranger the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

(5) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass holder shall return a pass to the commission. [Statutory Authority: RCW 43.51.055 and 43.51.060. 83-23-094 (Order 71), § 352-32-252, filed 11/22/83.]

WAC 352-32-255 Self-registration. In those parks so posted by the commission, park visitors shall register for the use of campsites and shall pay the appropriate fee, as provided for herein, on a self-registration basis, in accordance with all posted instructions. [Statutory

Authority: RCW 43.51.040 and 43.51.060. 82-09-035 (Order 60), § 352-32-255, filed 4/14/82.]

WAC 352-32-260 Sno-park permit. Only those vehicles properly displaying a valid winter recreational area parking permit issued by the state of Washington or by another state or nation which honors a Washington state winter recreational area parking permit shall park in designated winter recreational parking areas. Those vehicles in violation of this rule shall be subject to the application of RCW 46.61.587. [Statutory Authority: RCW 43.51.040 and 43.51.290. 78-02-038 (Order 38), § 352-32-260, filed 1/17/78; Order 37, § 352-32-260, filed 10/6/77.]

WAC 352-32-265 Sno-park permit--Display. The winter recreational area parking permit issued by the state of Washington shall be displayed near the lower left corner and on the inside of the windshield of the vehicle when the vehicle is parked in a designated winter recreational parking area. Those vehicles in violation of this rule shall be subject to application of RCW 46.61.587. [Statutory Authority: RCW 43.51.330 and 46.61.585. 80-18-004 (Order 49), § 352-32-265, filed 11/21/80.]

WAC 352-32-270 Sno-park permit--Fee. The fee for a winter recreational area parking permit issued by the state of Washington shall be \$10.00 annually. [Statutory Authority: RCW 43.51.300. 82-19-075 (Order 63), § 352-32-270, filed 9/21/82.]

WAC 352-32-280 Applicability of standard fees. The standard fees set forth in WAC 352-32-250 pursuant to RCW 43.41.060(6), shall not apply in the following circumstances:

(1) Whenever fees are charged by a concessionaire pursuant to a valid concession agreement granted by the commission pursuant to RCW 43.51.040(5).

(2) Whenever fees are established pursuant to a development or management plan authorized or directed to be prepared by the legislature or state agency other than the commission, as, for example the Fort Worden State Park development and management plans.

(3) Whenever any law enforcement officer occupies a campsite if the following conditions are met.

(a) The law enforcement officer's authority is effective in the geographic area where the campsite is located.

(b) The park manager, or his representative, has determined that the officer's police powers may be useful in maintaining a peaceful environment in the park.

(c) The officer agrees to act in his official capacity if requested by park staff.

(4) Whenever any improvement club or voluntary association, or committees representing such clubs or associations, acting pursuant to the commission's permission granted pursuant to RCW 43.51.130 - 43.51.160, utilizes any park facilities. Continuous occupancy of facilities by the same person or persons qualifying under this

sub-section shall be limited to 30 consecutive nights, unless otherwise approved by the director.

(5) Whenever any individual, appointed by a court of law to perform work in a park in lieu of other sentencing, utilizes any park facilities.

(6) Whenever any individual utilizes any park facility in accordance with the terms of any contract, lease, or concession agreement, with the commission.

The limit placed on any camper by WAC 352-32-030(5) shall not apply to persons qualifying under this section. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-09-035 (Order 60), § 352-32-280, filed 4/14/82. Statutory Authority: RCW 43.51.040(2) and 43.51.060(6). 78-05-082 (Order 39), § 352-32-280, filed 5/1/78; Order 34, § 352-32-280, filed 7/29/77.]

WAC 352-32-285 Applicability of standard fees to volunteers in parks. The standard fees set forth in WAC 352-32-250 pursuant to RCW 43.51.060(6) shall not apply whenever any individual, group, organization, association, or agency shall volunteer to perform personal services in lieu of standard fees if the following conditions are met:

(1) The park manager has determined that the personal service is desirable;

(2) At least four hours of service per day are performed for each campsite occupied;

(3) The service performed does not replace or supplant that which would otherwise be performed by parks employees or contractors;

(4) The service performed is not one commonly performed by members of an organized trade union;

(5) The service performed does not result in any type of development which will necessarily create future operating costs to the commission.

The limit placed on any camper by WAC 352-32-030(5) shall not apply to persons qualifying under this section. Continuous occupancy of facilities by the same person or persons qualifying under this section shall be limited to 30 consecutive nights, unless otherwise approved by the director.

This section does not expand or limit the provisions of RCW 43.51.130 - 43.51.160. [Statutory Authority: RCW 43.51.040 and 43.51.060. 82-09-035 (Order 60), § 352-32-285, filed 4/14/82; 81-15-059 (Order 53), § 352-32-285, filed 7/20/81. Statutory Authority: RCW 43.51.040(2) and 43.51.060(6). 78-05-082 (Order 39), § 352-32-285, filed 5/1/78.]

Chapter 352-36 WAC

REGULATIONS FOR THE USE AND CONTROL OF VEHICULAR TRAFFIC ON THE OCEAN BEACHES

WAC

352-36-010	Definitions.
352-36-020	Vehicular traffic—Where permitted—Generally.
352-36-025	Equestrian traffic.
352-36-030	Pedestrians to be granted right of way.
352-36-040	Restricted areas.
352-36-050	Parking.
352-36-060	Overnight parking or camping prohibited.

352-36-070	Operator's license required.
352-36-080	Speed limits.
352-36-090	Certain practices prohibited.
352-36-100	Rules of the road incorporated.
352-36-110	Certain vehicle lighting and equipment standards incorporated.
352-36-115	Aircraft.
352-36-120	Violations—Penalty.

WAC 352-36-010 Definitions. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(4) "Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment on the south and Cape Flattery on the north, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 43.51.655.

(5) "Long Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Cape Disappointment on the south and Leadbetter Point on the north.

(6) "South Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

(7) "North Beach" shall mean that area of the ocean beaches as defined in subparagraph (4) above lying between Damon Point on the south and Cape Flattery on the north.

(8) "Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

(9) "Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in subparagraph (8) above.

(10) "Driveable beach" shall mean that area lying between the upper or landward limit of the hard sand area and the clam beds.

(11) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a public highway, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor bikes, motor scooters, jeeps, or similar type four-wheel drive vehicles, buses, campers, motor homes, and other

self-propelled recreational vehicles. [Order 13, § 352-36-010, filed 4/19/72.]

WAC 352-36-020 Vehicular traffic--Where permitted--Generally. Subject to the restrictions set forth in subsequent sections of this chapter, and except at the point of intersection of any access road and the beach, the use of motor vehicles on and along the ocean beaches shall be permitted only on that area between the extreme upper or landward limit of the hard sand area and the clam beds, and defined as the "driveable beach" in WAC 352-36-010(10). The operation, or parking, of any vehicle is prohibited above and on the landward side of the driveable beach. The provisions of this section shall not apply to official vehicles engaged in authorized law enforcement, maintenance or sanitary patrol activities or emergency vehicles while engaged in the performance of any necessary service. [Statutory Authority: RCW 43.51.040, 43.51.660 and 43.51.680. 79-12-080 (Order 43), § 352-36-020, filed 11/30/79, effective 1/1/80; Order 13, § 352-36-020, filed 4/19/72.]

WAC 352-36-025 Equestrian traffic. (1) Equestrian traffic shall be permitted on and along the ocean beaches within the seashore conservation area year round except where prohibited by this rule or other provision of statute or rule.

(2) Equestrian traffic shall be permitted only on that area between the extreme upper and landward limit of the hard sand area and the clam beds.

(3) Equestrian access shall be permitted at the point of intersection of any access road and the beach or any equestrian trail designated by the commission. Upland owners shall also be allowed equestrian access to and from their property, except for commercial purposes.

(4) Within the seashore conservation area, equestrian traffic shall yield the right of way to all pedestrian or vehicular traffic.

(5) Horses shall be ridden at a walk or led through areas of heavy pedestrian concentration. [Statutory Authority: RCW 43.51.040, 43.51.660 and 43.51.680. 79-12-080 (Order 43), § 352-36-025, filed 11/30/79, effective 1/1/80.]

WAC 352-36-030 Pedestrians to be granted right of way. Vehicular and equestrian traffic shall at all times yield the right of way to pedestrians on the ocean beaches. [Order 13, § 352-36-030, filed 4/19/72.]

WAC 352-36-040 Restricted areas. (1) Vehicular traffic shall be allowed on the ocean beaches twenty-four hours a day except as further restricted within this WAC.

(2) Pedestrians only will be allowed during closed clam seasons on the following beaches:

(a) On Long Beach, from the south boundary of Leadbetter Point State Park to the north boundary of Leadbetter Point State Park—Natural Area.

(b) On North Beach, Benner Gap north to the Copalis River. [Order 28, § 352-36-040, filed 11/19/76; Order 13, § 352-36-040, filed 4/19/72.]

Reviser's note: The former subsection (3) has been removed from WAC 352-36-040 on the authority of the following letter dated May 7, 1981, from the attorney general:

"WAC 352-36-040(3) was invalidated by the decision in *Sim v. Washington state parks and recreation commission*, 94 Wn.2d 552 (1980).

The consent of the attorney general is hereby given and the code reviser is requested to remove all of WAC 352-36-040(3) from the Washington Administrative Code, pursuant to the provisions of RCW 34.04.050(5).

For The Attorney General
Robert C. Hargreaves
Assistant Attorney General"

WAC 352-36-050 Parking. Parking of vehicles shall be permitted only in an area extending 100 feet westerly from the upper or landward limit of the hard sand area, or where otherwise specifically designated by the Washington state parks and recreation commission. [Order 13, § 352-36-050, filed 4/19/72.]

WAC 352-36-060 Overnight parking or camping prohibited. Overnight parking or camping shall be prohibited on any area of the ocean beaches. [Order 13, § 352-36-060, filed 4/19/72.]

WAC 352-36-070 Operator's license required. No person shall operate any motor vehicle on or along the ocean beaches unless such person has in his or her possession a valid Washington state driver's license issued under the provisions of chapter 46.20 RCW: *Provided*, That the following persons shall be exempt from the provisions of this section:

(1) Any person in the service of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United states, or in the service of the National Guard of this state or any other state, when furnished with a driver's license by such service and when operating an official motor vehicle in such service; or

(2) A nonresident who is at least 16 years of age and who has in his possession a valid driver's license issued to him in his home state; or

(3) A nonresident who is at least 16 years of age and who has in his possession a valid driver's license issued to him in his home country. [Order 13, § 352-36-070, filed 4/19/72.]

WAC 352-36-080 Speed limits. (1) No person shall operate any motor vehicle on or along any ocean beach at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, animal, vehicle or other conveyance on or entering the driveable beach in compliance with legal requirements in the duty of all persons to use due care.

(2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the limits specified in this section shall be maximum lawful speeds, and no person shall operate any vehicle on the ocean beaches at a speed in excess of such maximum limits:

(a) On Long Beach 35 miles per hour;

(b) On North Beach and South Beach 25 miles per hour.

(3) The driver of every motor vehicle operating on the ocean beaches shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing a beach access road, when approaching one or more parked vehicles, when approaching or traveling past or in the vicinity of a pedestrian or group of pedestrians, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or beach conditions. [Order 13, § 352-36-080, filed 4/19/72.]

WAC 352-36-090 Certain practices prohibited. The following practices while operating any motor vehicle on or along the ocean beaches are specifically prohibited:

- (1) Squirreling;
- (2) Circling;
- (3) Cutting figure eights;
- (4) Racing;

(5) The operation of any motor vehicle in such a manner as to constitute a threat to the operator thereof, his or her passengers, pedestrians or equestrians using the beaches, animals or any other vehicle or other property. [Order 13, § 352-36-090, filed 4/19/72.]

WAC 352-36-100 Rules of the road incorporated. Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches chapter 46.61 RCW, constituting the Rules of the Road, is herewith expressly incorporated herein, and the practices required or prohibited in that chapter are hereby expressly required or prohibited when operating any motor vehicles on and along the ocean beaches. [Order 13, § 352-36-100, filed 4/19/72.]

WAC 352-36-110 Certain vehicle lighting and equipment standards incorporated. The following sections of chapter 46.37 RCW, entitled Vehicle Lighting and Other Equipment, are herewith expressly incorporated herein, and the vehicle lighting and equipment required in those sections are hereby expressly required when operating any motor vehicle on and along the ocean beaches:

(1) RCW 46.37.020 WHEN LIGHTED LAMPS AND SIGNALLING DEVICES ARE REQUIRED.

(2) RCW 46.37.240 BRAKING EQUIPMENT REQUIRED.

(3) RCW 46.37.380 HORNS AND WARNING DEVICES.

(4) RCW 46.37.390 MUFFLERS, PREVENTION OF NOISE AND SMOKE.

(5) RCW 46.37.420 RESTRICTIONS AS TO TIRE EQUIPMENT.

(6) RCW 46.37.530(3) MOTORCYCLES - MIRRORS, GOGGLES, FACE SHIELDS, AND HELMETS - REGULATIONS AND SPECIFICATIONS BY COMMISSION ON EQUIPMENT.

(7) All vehicles must have current valid motor vehicles license or ATV use permit.

Section 3 of chapter 77 of the Laws of 1971 is also herewith expressly incorporated herein, and the requirement of that section is hereby expressly required when

operating any motor vehicle on and along the ocean beaches:

UNSAFE CONDITION OF TIRES. [Order 28, § 352-36-110, filed 11/19/76; Order 13, § 352-36-110, filed 4/19/72.]

WAC 352-36-115 Aircraft. (1) Airplanes may land and take off on the ocean beach in the area commencing at the Copalis River north to the "rocks."

(2) The use of the beach by aircraft shall be subject to the jurisdiction of the aeronautics commission and all state and federal laws applicable to aircraft and pilots. [Order 28, § 352-36-115, filed 11/19/76.]

WAC 352-36-120 Violations--Penalty. In accordance with the provisions of RCW 43.51.180(7), and except where a higher penalty is specifically prescribed by law, the violation of any provision of this chapter shall constitute a misdemeanor, and shall be punishable as such. [Order 13, § 352-36-120, filed 4/19/72.]

Chapter 352-40 WAC PUBLIC RECORDS

WAC

352-40-010	Purpose.
352-40-020	Definitions.
352-40-030	Description of central and field organization of the Washington state parks and recreation commission.
352-40-040	Operations and procedures.
352-40-050	Public records available.
352-40-060	Public records officer.
352-40-070	Office hours.
352-40-080	Requests for public records.
352-40-090	Copying.
352-40-100	Exemptions.
352-40-110	Review of denials of public records requests.
352-40-120	Protection of public records.
352-40-130	Records index.
352-40-140	Communications.
352-40-150	Adoption of form.
352-40-900	Request for public record—Form.

WAC 352-40-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington state parks and recreation commission with the provisions of RCW 42.17.250 through 42.17.320 dealing with public records. [Order 15, § 352-40-010, filed 7/25/73.]

WAC 352-40-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristic.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Washington state parks and recreation commission" shall mean the commission appointed by the governor pursuant to chapter 43.51 RCW. The Washington state parks and recreation commission shall hereinafter be referred to as the "commission." Where appropriate, the term "commission" also refers to the staff and employees of the Washington state parks and recreation commission. [Order 15, § 352-40-020, filed 7/25/73.]

WAC 352-40-030 Description of central and field organization of the Washington state parks and recreation commission. The commission is an appointed commission. The administrative office of the commission and its staff are located at Tumwater Airdustrial Center, Olympia, Washington. Five regional offices with limited records availability, as specified in WAC 352-40-070, are located at Millersylvania State Park, Olympia, Washington; 220 Walnut Street, Burlington, Washington; 2201 North Duncan Drive, Wenatchee, Washington; Sacajawea State Park, Pasco, Washington; and 3107 "R" Street S.E., Auburn, Washington. [Statutory Authority: RCW 42.17.250. 83-23-095 (Order 72), § 352-40-030, filed 11/22/83; Order 15, § 352-40-030, filed 7/25/73.]

WAC 352-40-040 Operations and procedures. All decisions involving basic policy are made by the commission at its regular and special monthly meetings as outlined in chapters 352-04, 352-16, 352-24, 352-28, and 352-32 WAC. [Order 15, § 352-40-040, filed 7/25/73.]

WAC 352-40-050 Public records available. All public records of the commission, as defined in WAC 352-40-020(1), are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973 and WAC 352-40-100. [Order 15, § 352-40-050, filed 7/25/73.]

WAC 352-40-060 Public records officer. The commission's public records shall be in charge of the public records officer designated by the director. The person so designated shall be located in the administrative office of the commission. The public records officer shall be responsible for the following: The implementation of the commission's rules and regulations regarding release of public records, coordinating the staff of the commission in this regard, and generally insuring compliance by the staff of the commission in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973. [Order 15, § 352-40-060, filed 7/25/73.]

WAC 352-40-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the commission. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. All

public records of the commission are located at the Olympia headquarters office of the commission. In addition, certain specific records such as commission minutes, commission statements of policy, administrative staff manuals, and instructions to staff emanating from the commission, director, deputy director, and assistant directors can be obtained at the five regional offices identified in WAC 352-40-030. All other requests will be referred to the headquarters office located in Olympia through use of the "request for public information" form, WAC 352-40-900. [Statutory Authority: RCW 42.17.250. 83-23-095 (Order 72), § 352-40-070, filed 11/22/83; Order 15, § 352-40-070, filed 7/25/73.]

WAC 352-40-080 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedure:

(1) A request shall be made in writing upon a form prescribed by the commission which shall be available at its administrative office or the regional offices indicated in WAC 352-40-030. The form shall be presented to the public records officer, or to any member of the commission's staff if the public records officer is not available, during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the commission's current index, an appropriate description of the record requested.

(2) The public records officer, or staff member assisting the member of the public making the request, will ascertain that the information requested is not exempt from public inspection and copying as outlined in WAC 352-40-100 and further defined in section 31, Laws of 1973. Included therein, but not limited to, are such exemptions as personal information that may violate the right of privacy of the individual, national defense information, certain aspects of real estate appraisals as outlined in (g) of said section, and other vital governmental data.

(3) In all cases, it shall be the obligation of the public records officer, or staff member to whom the request is made, to:

- (a) Locate the specific document(s) requested by the member of the public in the most timely manner possible;

(b) Assist the member of the public in appropriately identifying the public record requested;

(c) Protect and otherwise prevent damage to the public record being inspected and copied;

(d) Prevent disorganization of file folders or document containers;

(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible;

(f) Prevent excessive interference with the other essential functions of the agency.

(4) In all cases, the member of the public making the request will not be permitted access to the file storage area. [Order 15, § 352-40-080, filed 7/25/73.]

WAC 352-40-090 Copying. No fee shall be charged for the inspection of public records. The commission shall charge a fee of fifty cents per page of copy for single page documents and twenty-five cents per page of copy for multiple page document copies of public records and for use of the commission copy equipment. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying. [Order 15, § 352-40-090, filed 7/25/73.]

WAC 352-40-100 Exemptions. (1) The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 352-40-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the commission reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [Order 15, § 352-40-100, filed 7/25/73.]

WAC 352-40-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director of the commission. The director shall immediately consider the matter and

either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 15, § 352-40-110, filed 7/25/73.]

WAC 352-40-120 Protection of public records. All public records of the commission are located in the Olympia headquarters, administrative services division, central files section. Records are available for inspection and copying at this location during office hours identified in WAC 352-40-070 and then only in the presence of an authorized employee of the commission and with the aid and assistance of such an employee. [Order 15, § 352-40-120, filed 7/25/73.]

WAC 352-40-130 Records index. (1) Index. The commission has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's report and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index promulgated by the commission shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order 15, § 352-40-130, filed 7/25/73.]

WAC 352-40-140 Communications. All communications with the commission including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973, and these rules, requests for copies of the commission's decisions and other matters, shall be addressed as follows: Washington State Parks and Recreation Commission, c/o Public Records Officer, P.O. Box

1128, Olympia, Washington 98504. [Order 15, § 352-40-140, filed 7/25/73.]

WAC 352-40-150 Adoption of form. The commission hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as WAC 352-40-900, entitled "Request for public record." [Order 15, § 352-40-150, filed 7/25/73.]

WAC 352-40-900 Request for public record--Form.

to: Washington State Parks and Recreation Commission

Attn: Public Records Officer
P.O. Box 1128
Olympia, Washington 98504

Name of requestor: -----

Address or requestor: -----

(Street)

(City) (State) (Zip)

Date of request: -----

(Month) (Day) (Year)

Time of request: -----
A.M.
P.M.
(Hour)

What information is requested? -----

Is information indexed? -----

If so, how? -----

Are copies requested? -----

If so, how many? -----

Total pages? -----

Fee charged ----- \$-----
(Pages x \$.-----)

[Appendix A (codified as WAC 352-40-900), filed 7/25/73.]

**Chapter 352-42 WAC
CRITERIA FOR HISTORIC PRESERVATION
PROJECTS--FINANCING**

WAC	
352-42-010	Scope of chapter.
352-42-020	Entities eligible for funding assistance.
352-42-030	Projects eligible for funding.
352-42-040	Matching requirements.
352-42-050	Procedural detail.
352-42-060	Administrative costs.
352-42-070	Joint rules.

WAC 352-42-010 Scope of chapter. This chapter establishes the criteria for historic preservation projects proposed by local and state agencies to receive grants from funds appropriated to the state parks and recreation commission for the purpose of financing historic preservation grants. [Order 24, § 82-40-010 (codified as WAC 352-42-010), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-020 Entities eligible for funding assistance. Only public agencies as defined in section 5, chapter 129, Laws of 1972 1st ex. sess. are eligible for funding assistance. [Order 24, § 82-40-020 (codified as WAC 352-42-020), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-030 Projects eligible for funding. Projects eligible for funding must be (1) on the national register of historic places, or
(2) On the Washington state register of historic places, or
(3) Possess sufficient characteristics to become eligible for either the national or state register of historic places, and/or
(4) Authentic artifacts intended for use with any properties identified in (1), (2), and (3) above. [Order 24, § 82-40-030 (codified as WAC 352-42-030), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-040 Matching requirements. The Washington state parks and recreation commission may approve up to 100 percent funding of the total cost of eligible projects proposed by state agencies and may approve up to 50 percent funding of the total cost of the eligible projects proposed by local agencies. Federal historic preservation funds may not be used for local matching purposes. [Order 24, § 82-40-040 (codified as WAC 352-42-040), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-050 Procedural detail. The commission may delegate to the director or his designee, the right to adopt grant application procedures to facilitate the administration of the grant program. [Order 24, § 82-40-050 (codified as WAC 352-42-050), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-060 Administrative costs. The commission may use program funds to assure continued administration of the historic preservation program. [Order 24, § 82-40-060 (codified as WAC 352-42-060), filed 9/4/75. See also chapter 82-40 WAC.]

WAC 352-42-070 Joint rules. The rules contained in this chapter are adopted jointly by the Washington state parks commission and the office of program planning and fiscal management pursuant to section 170(2), chapter 269, Laws of 1975 1st ex. sess. [Order 24, § 82-40-070 (codified as WAC 352-42-070), filed 9/4/75. See also chapter 82-40 WAC.]

Chapter 352-44 WAC
RECREATIONAL CONVEYANCES—
CERTIFICATION—INSPECTIONS—OPERATOR
QUALIFICATIONS—VIOLATIONS, ETC.

WAC

352-44-010	Recreational conveyances—Definitions.
352-44-020	Recreational conveyances—Certification.
352-44-030	Recreational conveyances—Conditional certificate.
352-44-040	Recreational conveyances—Access to certificate.
352-44-050	Recreational conveyances—Safety inspections.
352-44-060	Recreational conveyances—Standards.
352-44-070	Recreational conveyances—Construction of new conveyances.
352-44-080	Recreational conveyances—Simulated load test.
352-44-090	Recreational conveyances—Operators and operator qualifications.
352-44-100	Recreational conveyances—Notice of malfunctions.
352-44-110	Recreational conveyances—Nonliability of the state and personnel.
352-44-120	Recreational conveyances—Violation constitutes a misdemeanor.

WAC 352-44-010 Recreational conveyances—Definitions. Whenever used in this chapter, the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission or his designee.

(3) "Certificate" shall mean either the certificate to operate or the conditional certificate to operate. [Order 20, § 352-44-010, filed 7/31/74.]

WAC 352-44-020 Recreational conveyances—Certification. Each conveyance for persons generally engaging in winter sports recreational activities, as described in RCW 70.88.010, shall have a current annual certificate to operate on a form approved and provided by the commission. Said certificate shall be for an annual term of one year beginning January 1 of each year. No conveyance shall be operated for use by the public unless a valid current certificate has been issued by the director. The certificate shall be:

(1) Signed by the director.

(2) Posted in a conspicuous location at the main loading terminal during periods of operation for public use.

(3) Adequately protected from the elements. [Order 20, § 352-44-020, filed 7/31/74.]

WAC 352-44-030 Recreational conveyances—Conditional certificate. The director may, if deemed necessary, issue a conditional certificate to operate for a specified period of time. Operation during the period that the conditional certificate is in effect shall be in strict compliance with the conditions stated in the conditional certificate. The conditional certificate shall be:

(1) Signed by the director.

(2) Posted in a conspicuous location at the main loading terminal during periods of operation for public use.

(3) Adequately protected from the elements. [Order 20, § 352-44-030, filed 7/31/74.]

WAC 352-44-040 Recreational conveyances—Access to certificate. The director shall have access to the certificate at all times and the authority to revoke the certificate at any time that he determines the conveyance is not safe for public use. [Order 20, § 352-44-040, filed 7/31/74.]

WAC 352-44-050 Recreational conveyances—Safety inspections. The director shall carry out a minimum of one safety inspection on each conveyance each calendar year. Additional inspections may be made as deemed necessary by the director. Costs accrued by the commission for inspection of conveyance facilities shall be charged to the owner or operator of the conveyance inspected and shall become a lien upon said equipment. [Order 20, § 352-44-050, filed 7/31/74.]

WAC 352-44-060 Recreational conveyances—Standards. The current *American National Standards Safety Requirements for Aerial Passenger Tramways* shall apply to the design and inspection of all conveyances as interpreted by the director unless a request for waiver is submitted by the operator and a waiver is granted by the director. [Order 20, § 352-44-060, filed 7/31/74.]

WAC 352-44-070 Recreational conveyances—Construction of new conveyances. All new conveyances which are to be constructed after the effective date of these regulations shall:

(1) Require approval of the director prior to commencement of construction.

(2) Be designed by an engineer meeting the requirements of the state of Washington Professional Engineers Registration Act (chapter 18.43 RCW).

(3) Be certified by the design engineer that the conveyance has been installed in accordance with the plans and specifications.

(4) Be subjected to an acceptance test and inspection as specified in the current *American National Standards Safety Requirements for Aerial Passenger Tramways* before certification by the director. The director shall be given a minimum of seven days notice of the schedule for the final load test. [Order 20, § 352-44-070, filed 7/31/74.]

WAC 352-44-080 Recreational conveyances—Simulated load test. All aerial conveyances (those which carry passengers above ground) shall be subject to an annual simulated load test to specifically demonstrate the braking capabilities of each braking system on the lift. Additional load testing may be required when requested by the director. (1) Simulated loads shall be in the amount recommended by the design engineer and approved by the director.

(2) The simulated load may be a static load and shall be imposed in any manner recommended by the design engineer and/or the director.

(3) All brakes recommended by the design engineer and/or designated by the director shall be required to hold the test load independent of all other brakes.

(4) The load test(s) shall be performed in the presence of an individual designated by the director.

(5) All aerial conveyances shall be in full compliance with this section by December 31, 1975. [Order 20, § 352-44-080, filed 7/31/74.]

WAC 352-44-090 Recreational conveyances—Operators and operator qualifications. The director may require minimum operation qualifications and operational procedures to assure a reasonable degree of safety to the using public. The director shall appoint a committee representative of skiing interest to consider and recommend a set of guidelines and minimum standards for the operators and the safe operation of conveyances. The director shall adopt standards on or before December 31, 1974 and the operation of all conveyances shall be in full compliance with the approved standards by December 31, 1975. [Order 20, § 352-44-090, filed 7/31/74.]

WAC 352-44-100 Recreational conveyances—Notice of malfunctions. Operators shall be required to notify the commission of incidents or malfunctions which occur, wherein public safety either has been or could have been in jeopardy on forms and according to instructions provided by the commission. [Order 20, § 352-44-100, filed 7/31/74.]

WAC 352-44-110 Recreational conveyances—Nonliability of the state and personnel. Inspections, rules and orders of the commission resulting from the exercise of any provision of this chapter shall not in any manner be deemed to impose liability upon the state of Washington and its personnel for any injury or damage resulting from the operation of the facilities regulated, and all actions of the commission and its personnel shall be deemed to be an exercise of the police power of the state. [Order 20, § 352-44-110, filed 7/31/74.]

WAC 352-44-120 Recreational conveyances—Violation constitutes a misdemeanor. In accordance with the provisions of RCW 70.88.040 the violation of any provision of this chapter shall constitute a misdemeanor and shall be punished as such. [Order 20, § 352-44-120, filed 7/31/74.]

Chapter 352-44A WAC

RULES AND REGULATIONS FOR THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

WAC

352-44A-010	Purpose.
352-44A-020	Definitions.
352-44A-030	Description of purpose and staff.
352-44A-040	Procedures.
352-44A-050	Public records available.

WAC 352-44A-010 Purpose. The purpose of this chapter shall be to ensure compliance by the advisory council on historic preservation with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—

Campaign finances—Lobbying—Records; and in particular with sections 25 through 32 of that act [RCW 42.17.250 through 42.17.320], dealing with public records. [Order 1, § 352-44A-010, filed 6/11/74.]

WAC 352-44A-020 Definitions. (1) **Public records.** "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form of characteristics.

(2) **Writing.** Writing means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) **Advisory council on historic preservation.** The advisory council on historic preservation is the council established pursuant to RCW 43.51.790. The advisory council shall hereinafter be referred to as the "council."

(4) **Executive director of council.** The director of Washington state parks and recreation commission or his designee shall be executive director of the council.

(5) **County liaison officer.** The county liaison officer is a volunteer who has been appointed by the office of archaeology and historic preservation to conduct an inventory of historic places in the county, and to prepare nominations to the national and state registers of historic places.

(6) **Office of archaeology and historic preservation.** The office of archaeology and historic preservation is the staff provided by the parks and recreation commission for administrative services to the advisory council on historic preservation, hereinafter referred to as "office." [Order 1, § 352-44A-020, filed 6/11/74.]

WAC 352-44A-030 Description of purpose and staff. The council is of an advisory nature for the governor and Washington state parks and recreation commission. Financial and administrative services including those related to budgeting, accounting, financial reporting, personnel and procurement shall be provided the council by the Washington state parks and recreation commission. The administrative office of the council and its staff are located at the Washington state parks and recreation commission office at Tumwater Airdustrial Center, Olympia, Washington. The council shall meet the last Friday of every third month unless otherwise agreed by a majority of the members of the council at the meeting held immediately preceding. [Order 1, § 352-44A-030, filed 6/11/74.]

WAC 352-44A-040 Procedures. The following is a statement of the general course and method followed in the nomination and designation of historic properties.

(1) Nomination of properties may be developed by the county liaison officer designated by the office or by any

interested person. Nomination must be submitted to the office of archaeology and historic preservation.

(2) The office will notify the originator of the nomination and the owner of the nominated property that the nomination has been received.

(3) The office may return the nomination to the originator for additional information or request other information pertinent to the development of the nomination.

(4) The office will notify the owner of the nominated property and the most appropriate political entity of the date, place and time of review of the nomination by the council.

(5) The property owner will be notified of the action taken by the council.

(6) In the nomination of a historic district where several properties are involved, notice of review of the district by the council will be made in a public place or in local media.

(7) The council will transmit its recommendations to the director of the parks and recreation commission. [Order 1, § 352-44A-040, filed 6/11/74.]

WAC 352-44A-050 Public records available. All public records of the council, as defined in WAC 352-44-010 are available for public inspection and copying at the Washington state parks and recreation commission's office at Tumwater Airdustrial Center, Olympia, Washington, pursuant to WAC 352-40-060 through 352-40-160, except as otherwise provided by section 31, chapter 1, Laws of 1973 (RCW 42.17.310) and WAC 352-40-100. [Order 1, § 352-44A-050, filed 6/11/74.]

Chapter 352-48 WAC SNOWMOBILE ACCOUNT GRANTS AND CONTRACTS

WAC	
352-48-010	Purpose.
352-48-020	Definitions.
352-48-030	Snowmobile programs.
352-48-040	Eligibility.
352-48-050	Application process.
352-48-060	Funding priorities.
352-48-070	Disbursement of funds.
352-48-080	Accountability.

WAC 352-48-010 Purpose. This chapter is promulgated in order to establish procedures by which the Washington state parks and recreation commission will administer grants and contracts supported by snowmobile account funds in accordance with chapter 46.10 RCW. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-010, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-010, filed 8/27/80.]

WAC 352-48-020 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise:

(1) "Snowmobile" means any self-propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to the motor vehicle excise tax in the state of Washington.

(2) "Snowmobile use area" means an area described by boundary and acreage in which snowmobile use is authorized.

(3) "Snowmobile trail" means a corridor described by location and length which is designated for snowmobile travel.

(4) "Snowmobile funds" means the funds deposited in the snowmobile account which are administered by the Washington state parks and recreation commission pursuant to this chapter and chapter 46.10 RCW.

(5) "Commission" means the Washington state parks and recreation commission.

(6) "Director" means the director of the Washington state parks and recreation commission. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-020, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-020, filed 8/27/80.]

WAC 352-48-030 Snowmobile programs. Snowmobile funds may be disbursed by the commission for snowmobile purposes which may include, but not be limited to, the administration, acquisition, development, operation, and maintenance of snowmobile facilities, such as snowmobile trails, snowmobile use areas, parking areas, sanitary facilities, and equipment and the development and implementation of snowmobile safety, enforcement, and education programs.

All snowmobile facilities which receive snowmobile funds must be open to the general public and meet all legally enforceable safety requirements. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-030, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-030, filed 8/27/80.]

WAC 352-48-040 Eligibility. Any public agency is eligible to receive from the commission grants of snowmobile funds to support up to one hundred percent of the cost of snowmobile programs.

Any public or private agency or person is eligible to enter into contracts with the commission to receive snowmobile funds to support up to one hundred percent of the cost of snowmobile programs. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-040, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-040, filed 8/27/80.]

WAC 352-48-050 Application process. In order to be considered by the commission for the receipt of

snowmobile funds, a public or private agency or person must:

(1) Complete an application on a form prescribed by the commission and file the application with the commission by June 1 prior to the beginning of the first snow season for which funds are requested.

(2) Obtain permission to conduct a program from all owners of the land on which a program is to occur and file documentation of such permission with the commission at the time of application for funds.

(3) Agree to:

(a) File with the commission an annual report on a program for which funds are received by May 15 after the end of each snow season for which funds are received;

(b) Return, or replace in kind, to the commission any losses to a program for which funds are received, if due to the action of a recipient of funds, a program is not completed in a timely manner or cancelled; and

(c) Execute a contract with the commission on a program for which funds are received and fulfill all obligations of the contract.

(4) Certify to the commission that any facility for which funds are received will be open to the general public.

(5) Comply with all applicable local, state, and federal laws. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-050, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-050, filed 8/27/80.]

WAC 352-48-060 Funding priorities. The priorities for the distribution of snowmobile funds by the commission shall be:

(1) Administration of a state-wide snowmobile program which includes safety, education, and information programs;

(2) Operation and maintenance of major trailgrooming equipment;

(3) Operation and maintenance of snowmobile trails, use areas, parking areas, and other facilities which include an emergency reserve and an enforcement program;

(4) Replacement of equipment which supports snowmobile programs;

(5) Acquisition and development of new snowmobile facilities and equipment; and

(6) Support of special snowmobile programs. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-060, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-060, filed 8/27/80.]

WAC 352-48-070 Disbursement of funds. Applicants for snowmobile funds whose requests are approved by the commission may receive funds (1) on a reimbursement basis after a billing which indicates satisfactory compliance with a contract has been filed with the commission or (2) through an advance payment upon a written request to and approval by the director. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution

No. 68), § 352-48-070, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-070, filed 8/27/80.]

WAC 352-48-080 Accountability. Recipients of snowmobile funds shall maintain accurate accounting records on the expenditure of the funds, provide the commission with these records upon request, and permit the commission to audit the use of the funds in accordance with generally accepted audit practices and standards. [Statutory Authority: RCW 46.10.210. 83-13-087 (Resolution No. 68), § 352-48-080, filed 6/17/83. Statutory Authority: RCW 46.10.080. 80-12-022 (Order 46), § 352-48-080, filed 8/27/80.]

Chapter 352-52 WAC

HOSTELS

WAC

352-52-010	Purpose.
352-52-020	Definitions.
352-52-030	Grants or moneys for support of hostels.
352-52-040	Operation of hostels.

WAC 352-52-010 Purpose. This chapter is promulgated to carry out the commission's duties and responsibilities as contained in RCW 43.51.375. [Statutory Authority: RCW 43.51.375 and 43.51.060(1). 81-19-114 (Order 54), § 352-52-010, filed 9/23/81.]

WAC 352-52-020 Definitions. Whenever used in this chapter the following terms shall be defined as herein indicated.

(1) "Hostel" means a simple basic structure which serves as a safe, low-cost overnight accommodation for mobile people of all ages from this country and abroad.

(2) "Director" means the director of the Washington state parks and recreation commission.

(3) "Commission" means the Washington state parks and recreation commission. [Statutory Authority: RCW 43.51.375 and 43.51.060(1). 81-19-114 (Order 54), § 352-52-020, filed 9/23/81.]

WAC 352-52-030 Grants or moneys for support of hostels. The commission will accept grants or moneys from any federal or private source for support of hostels. The commission, at its discretion, will apportion and transfer any such moneys to public agencies which have contracted for the operation of a hostel or hostels, or to political subdivisions which operate hostels. Application for such moneys shall be made on a form provided by the director, which may be obtained upon request by writing in care of the Director, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, Washington 98504: *Provided*, That no contracting agency or political subdivision will be eligible to receive any such moneys in support of hostels unless their hostels are operated in accordance with WAC 352-52-040. [Statutory Authority: RCW 43.51.375 and 43.51.060(1). 81-19-114 (Order 54), § 352-52-030, filed 9/23/81.]

WAC 352-52-040 Operation of hostels. Hostels shall be operated in substantial compliance with the operating standards and customs established by American Youth Hostels, Inc. (AYH), as reflected in the AYH Hostel Operations Manual, January 1977 revision. Copies of the manual are available upon request by writing in care of the director, whose address is given in WAC 352-52-030. There will be a charge for copying the manual according to the fees established in WAC 352-40-090 for copying public records. [Statutory Authority: RCW 43.51.375 and 43.51.060(1). 81-19-114 (Order 54), § 352-52-040, filed 9/23/81.]

Chapter 352-56 WAC

WINTER RECREATIONAL PROGRAM ACCOUNT GRANTS AND CONTRACTS

WAC

- 352-56-010 Purpose.
- 352-56-020 Definitions.
- 352-56-030 Winter recreational programs.
- 352-56-040 Eligibility.
- 352-56-050 Application process.
- 352-56-060 Funding priorities.
- 352-56-070 Disbursement of funds.
- 352-56-080 Accountability.

WAC 352-56-010 Purpose. This chapter is promulgated in order to establish procedures by which the Washington state parks and recreation commission will administer grants and contracts supported by winter recreational program funds in accordance with chapter 43.51 RCW. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-010, filed 6/17/83.]

WAC 352-56-020 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise:

- (1) "Commission" means the Washington state parks and recreation commission.
- (2) "Director" means the director of the Washington state parks and recreation commission.
- (3) "Trail" means a corridor described by location and length which is designated for nonsnowmobile winter recreational activities.
- (4) "Use area" means an area described by boundary and acreage in which nonsnowmobile winter recreational activities are authorized.
- (5) "Winter recreational" means nonsnowmobile winter recreational activities, facilities, or programs.
- (6) "Winter recreational program funds" means the funds deposited in the winter recreational program account which are administered by the Washington state parks and recreation commission pursuant to this chapter and chapter 43.51 RCW. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-020, filed 6/17/83.]

WAC 352-56-030 Winter recreational programs. Winter recreational program funds may be disbursed by the commission for purposes which may include, but not be limited to, the administration, acquisition, development, operation, planning, and maintenance of winter recreational facilities, such as parking areas, sanitary facilities, trails, use areas, and equipment, and the development and implementation of winter recreational safety, enforcement, and education, and information programs.

All winter recreational facilities which receive winter recreational program funds must be open to the general public and meet all legally enforceable safety requirements. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-030, filed 6/17/83.]

WAC 352-56-040 Eligibility. Any public agency in the state of Washington is eligible to receive from the commission grants of winter recreational program funds to support up to one hundred percent of the cost of winter recreational programs.

Any public or private agency or person in the state of Washington is eligible to enter into contracts with the commission to receive winter recreational program funds to support up to one hundred percent of the cost of winter recreational programs. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-040, filed 6/17/83.]

WAC 352-56-050 Application process. In order to be considered by the commission for the receipt of winter recreational program funds, a public or private agency or person must:

- (1) Complete an application on a form prescribed by the commission and file the application with the commission by June 1 prior to the beginning of the first snow season for which funds are requested.
- (2) Obtain permission to conduct a program from all owners of the land on which a program is to occur and file documentation of such permission with the commission at the time of application for funds.
- (3) Agree to:
 - (a) File with the commission an annual report on a program for which funds are received by May 15 after the end of each snow season for which funds are received;
 - (b) Return, or replace in kind, to the commission any losses to a program for which funds are received, if due to the action of a recipient of funds, a program is not completed in a timely manner or cancelled; and
 - (c) Execute a contract with the commission on a program for which funds are received and fulfill all obligations of the contract.
- (4) Certify to the commission that any facility for which funds are received will be open to the general public.

(5) Comply with all applicable local, state, and federal laws. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-050, filed 6/17/83.]

WAC 352-56-060 Funding priorities. The priorities for the distribution of winter recreational program funds by the commission shall be:

(1) Administration of a state-wide winter recreational program which includes safety, education, and information programs;

(2) Operation and maintenance of winter recreational parking areas designated by the commission;

(3) Operation and maintenance of winter recreational use areas, trails, and other facilities which include an emergency reserve fund and an enforcement program;

(4) Acquisition and replacement of equipment to support winter recreational programs;

(5) Acquisition and development of new winter recreational facilities; and

(6) Support of special winter recreational programs. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-060, filed 6/17/83.]

WAC 352-56-070 Disbursement of funds. Applicants for winter recreational program funds whose requests are approved by the commission may receive funds (1) on a reimbursement basis after a billing which indicates satisfactory compliance with a contract has been filed with the commission or (2) through an advance payment upon a written request to and approval by the director. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-070, filed 6/17/83.]

WAC 352-56-080 Accountability. Recipients of winter recreational program funds shall maintain accurate accounting records on the expenditure of the funds, provide the commission with these records upon request, and permit the commission to audit the use of the funds in accordance with generally accepted audit practices and standards. [Statutory Authority: RCW 43.51.330. 83-13-033 (Resolution No. 69), § 352-56-080, filed 6/17/83.]

Chapter 352-70 WAC

BOATING ACCIDENT AND CASUALTY REPORTS

WAC

352-70-010	Purpose.
352-70-020	Definitions.
352-70-030	Applicability.
352-70-040	Written accident and casualty report.
352-70-050	Content of written accident and casualty report.
352-70-060	Submission of notification and report.

WAC 352-70-010 Purpose. This chapter is promulgated in order to establish procedures by which boating accident and casualty reports are to be submitted to the Washington state parks and recreation commission in accordance with RCW 43.51.400. [Statutory Authority: RCW 43.51.400. 84-01-060 (Order 73), § 352-70-010, filed 12/19/83.]

WAC 352-70-020 Definitions. When used in this chapter the following words and phrases shall have the

meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Commission" means the Washington state parks and recreation commission.

(2) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(3) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(4) "Use" means operate, navigate, or employ.

(5) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(6) "Waters of Washington state" means any waters within the territorial limits of Washington state. [Statutory Authority: RCW 43.51.400. 84-01-060 (Order 73), § 352-70-020, filed 12/19/83.]

WAC 352-70-030 Applicability. (1) This chapter applies to each vessel used on the waters of Washington state that:

(a) Is used by its operator for recreational purposes; or

(b) Is required to register in accordance with RCW 88.02.030.

(2) This chapter does not apply to each vessel required to have a certificate of inspection in accordance with chapter I, Title 46, Code of Federal Regulations. [Statutory Authority: RCW 43.51.400. 84-01-060 (Order 73), § 352-70-030, filed 12/19/83.]

WAC 352-70-040 Written accident and casualty report. (1) The operator of a vessel shall submit a written report to the commission when as a result of an occurrence that involves the vessel or its equipment:

(a) A person dies;

(b) A person is injured and requires medical treatment beyond first aid;

(c) Damage to the vessel and other property totals more than two hundred dollars or there is a complete loss of a vessel; or

(d) A person disappears from the vessel under circumstances that indicate death or injury.

(2) A report required by this section must be submitted within forty-eight hours of the occurrence if a person dies within twenty-four hours of the occurrence, is injured and requires medical treatment beyond first aid, or disappears from a vessel.

All other reports required by this section must be submitted within ten days of the occurrence.

(3) If the operator of a vessel cannot submit the report required by this section, the owner shall submit the report, and, if the owner cannot submit the report, another person acting on behalf of the owner shall submit the report. [Statutory Authority: RCW 43.51.400. 84-01-060 (Order 73), § 352-70-040, filed 12/19/83.]

WAC 352-70-050 Content of written accident and casualty report. Each written report required by WAC

352-70-040 shall be on a form prescribed by the commission. Each report must be dated upon completion, signed by the person who prepared it, and must contain, if available, at least the following information about the accident or casualty:

(1) The registration numbers or names as documented of each vessel involved.

(2) The name and address of each owner of each vessel involved.

(3) The name of the nearest city or town, the county, the state, and the body of water.

(4) The time and date the accident or casualty occurred.

(5) The location on the water.

(6) The visibility, weather, and water conditions.

(7) The estimated air and water temperatures.

(8) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator of the vessel of the person making the report.

(9) The name and address of each operator of each other vessel involved.

(10) The number of persons on board and towed on skis by each vessel.

(11) The name, address, and date of birth of each person injured or killed.

(12) The cause of each death.

(13) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.

(14) The name and address of each owner of property involved.

(15) The number, availability, and use of personal flotation devices.

(16) The type and amount of each fire extinguisher used.

(17) The nature and extent of each injury.

(18) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(19) A description of each equipment failure that caused or contributed to the cause of the accident or casualty.

(20) A description of the vessel accident or casualty.

(21) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other) and the type of accident (capsizing, sinking, fire, explosion, or other).

(22) The opinion of the person making the report as to the cause of the accident or casualty.

(23) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horse power, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year) of the vessel of the person making the report.

(24) The name, address, and telephone number of each witness.

(25) The manufacturer's hull identification number, if any, of the vessel of the person making the report.

(26) The name, address, and telephone number of the person submitting the report. [Statutory Authority:

RCW 43.51.400. 84-01-060 (Order 73), § 352-70-050, filed 12/19/83.]

WAC 352-70-060 Submission of notification and report. The report required by this chapter shall be submitted to:

Washington State Parks and
Recreation Commission
Boating Safety and Education
7150 Cleanwater Lane KY-11
Olympia, Washington 98504
(206) 753-5755

[Statutory Authority: RCW 43.51.400. 84-01-060 (Order 73), § 352-70-060, filed 12/19/83.]