

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

BOARD OF DIRECTORS

(name of governing body)

WASHINGTON STATE CONVENTION AND TRADE CENTER

(agency name, if applicable)

Resolution No. 103

Administrative Order No. 3

(1) Be it resolved by the Washington State Convention and Trade Center acting at 720 Olive Way, Suite 1515, Seattle, Washington

(place)

that it does adopt the annexed rules relating to:

The implementation of the State Environmental Policy Act ("SEPA"), RCW ch. 43.21C. In order to comply with the 1984 SEPA Rules adopted by the Department of Ecology (WAC 197-11), the WSCTC proposes to repeal its existing SEPA Guidelines (WAC 140-08) and adopt new rules. The new proposed rules adopt by reference, specific sections of WAC 197-11, the DOE

(OVER)

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 84-22-045

filed with the code reviser on Nov. 7, 1984. These rules shall take effect:

- X thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

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

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

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

X (a) This rule is promulgated pursuant to RCW 43.21C and is intended to administratively implement that statute.

(b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

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

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED December 20, 19 84

STATE OF WASHINGTON FILED

JAN 3 1985

CODE REVISER'S OFFICE WSR 85-03-004

By Peggy Flynn Washington State Convention and Trade Center Corporate Secretary Title

NOTE:

¹RCW 34.04.026 provides:

"(1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ which directs that the (agency) has authority to implement the provisions of (name of act or RCW citation)."

(c) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule making authority either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule making authority of the (agency) as authorized in RCW _____."

(2) The code reviser is directed to develop a format for placing such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests."

SEPA Rules. The new proposed rules include sections on:
(1) Purpose and Authority; (2) General Requirements; (3) Categorical Exemptions and Threshold Determinations; (4) Environmental Impact Statements; (5) Commenting; (6) Use of Existing Environmental Documents; (7) SEPA's Effect on Agency Decisions; (8) Definitions; (9) Categorical Exemptions; (10) Agency Compliance with SEPA; and (11) Forms.



REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 140-08-010 PURPOSE.
 WAC 140-08-020 POLICIES.
 WAC 140-08-030 ADOPTION BY REFERENCE.
 WAC 140-08-040 ADDITIONAL DEFINITIONS.
 WAC 140-08-050 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED
 AGENCY RESPONSIBILITIES FOR THE CORPORATION.
 WAC 140-08-060 DESIGNATION OF RESPONSIBLE OFFICIAL.
 WAC 140-08-070 SEPA PUBLIC INFORMATION CENTER.
 WAC 140-08-080 RESPONSIBILITY OF CORPORATION--PUBLIC
 INFORMATION.
 WAC 140-08-090 NOTICE/STATUTE OF LIMITATIONS.
 WAC 140-08-100 SEVERABILITY.
 WAC 140-08-110 COMPLIANCE.

Chapter 140-09 WAC

WASHINGTON STATE CONVENTION AND TRADE CENTER--SEPA GUIDELINES

WAC

140-09-010	Authority.
140-09-020	Purpose of this part and adoption by reference.
140-09-030	Additional definitions.
140-09-040	Designation of responsible official.
140-09-050	Lead agency determination and responsibilities.
140-09-058	Additional timing considerations.
140-09-065	Purpose of this part and adoption by reference.
140-09-080	Use of exemptions.
140-09-090	Environmental checklist.
140-09-100	Mitigated DNS.
140-09-110	Purpose of this part and adoption by reference.
140-09-120	Preparation of EIS--Additional considerations.
140-09-128	Adoption by reference.
140-09-130	Public notice.
140-09-140	Designation of official to perform consulted agency responsibilities for the corporation.
140-09-150	Purpose of this part and adoption by reference.
140-09-155	Purpose of this part and adoption by reference.
140-09-160	Substantive authority.
140-09-173	Notice/statute of limitations.
140-09-175	Purpose of this part and adoption by reference.
140-09-180	Adoption by reference.
140-09-185	Purpose of this part and adoption by reference.
140-09-200	Fees.
140-09-220	Severability.
140-09-230	Adoption by reference.

PART ONE - AUTHORITY

NEW SECTION

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

PART TWO - GENERAL REQUIREMENTS

NEW SECTION

WAC 140-09-020 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the basic requirements that apply to the SEPA process. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

197-11-040 Definitions.
 197-11-050 Lead agency.
 197-11-055 Timing of the SEPA process.
 197-11-060 Content of environmental review.
 197-11-070 Limitations on actions during SEPA process.
 197-11-080 Incomplete or unavailable information.
 197-11-090 Supporting documents.
 197-11-100 Information required of applicants.

NEW SECTION

WAC 140-09-030 ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, the following terms shall have the following meanings when used in this chapter, unless the context indicates otherwise:

- (1) "Corporation" means the Washington state convention and trade center as established by chapter 67.40 RCW.
- (2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.
- (3) "Early notice" means the corporation's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

NEW SECTION

WAC 140-09-040 DESIGNATION OF RESPONSIBLE OFFICIAL. (1) For those proposals for which the corporation is the lead agency, the responsible official shall be the administrator of the Washington state convention and trade center.

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

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

NEW SECTION

WAC 140-09-050 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES.

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

(2) When the corporation is the lead agency for a proposal, it shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

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

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

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

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

NEW SECTION

WAC 140-09-058 ADDITIONAL TIMING CONSIDERATIONS. If the corporation's only action on a proposal is a decision on a license that requires detailed project plans and specifications, the applicant may request in writing that the corporation conduct environmental review prior to submission of the detailed plans and specifications.

PART THREE - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

NEW SECTION

WAC 140-09-065 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring

an EIS. The corporation adopts the following sections by reference, as supplemented in this part:

WAC

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

NEW SECTION

WAC 140-09-080 USE OF EXEMPTIONS. (1) When the corporation receives an application for a license or, in the case of governmental proposals, when the corporation initiates the proposal, it shall determine whether the license and/or the proposal is exempt. The corporation's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The corporation shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the corporation shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the corporation shall determine the lead agency, even if the license application that triggers the corporation's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the corporation may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

(a) The corporation shall not give authorization for:

(i) Any nonexempt action;

(ii) Any action that would have adverse environmental impact; or

(iii) Any action that would limit the choice of alternatives;

(b) The corporation may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) The corporation may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

NEW SECTION

WAC 140-09-090 ENVIRONMENTAL CHECKLIST. (1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license certificate, or other approval not specifically exempted in this rule; except, a checklist is not needed if the corporation and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The corporation shall use the environmental checklist to determine the

lead agency and, if the corporation is the lead agency, for determining the responsible official and for making the threshold determination.

(2) For private proposals, the corporation will require the applicant to complete the environmental checklist, providing assistance as necessary. For corporation proposals, it shall complete the environmental checklist for that proposal.

(3) The corporation may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

(a) The corporation has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

NEW SECTION

WAC 140-09-100 MITIGATED DNS. (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached on the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the corporation is lead agency; and

(b) Precede the corporation's actual threshold determination for the proposal.

(3) The corporation's response shall:

(a) Be written;

(b) State whether the corporation currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the corporation to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impact, revising the environmental checklist and/or permit application as necessary to reflect the change or clarifications.

(4) As much as possible, the corporation should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the corporation shall base its threshold determination on the changed or clarified proposal.

(a) If the corporation indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the corporation shall issue and circulate a DNS under WAC 197-11-340(2).

(b) If the corporation indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the corporation shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the corporation.

(8) If the corporation's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the corporation should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

(9) The corporation's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the corporation to consider the clarifications or changes in its threshold determination.

PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

NEW SECTION

WAC 140-09-110 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the rules for preparing environmental impact statements. The corporation adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400 Purpose of EIS.
 197-11-402 General requirements.
 197-11-405 EIS types.
 197-11-406 EIS timing.
 197-11-408 Scoping.
 197-11-410 Expanded scoping. (Optional)
 197-11-420 EIS preparation.
 197-11-425 Style and size.
 197-11-430 Format.
 197-11-435 Cover letter or memo.
 197-11-440 EIS contents.
 197-11-442 Contents of EIS on nonproject proposals.
 197-11-443 EIS contents when prior nonproject EIS.
 197-11-444 Elements of the environment.
 197-11-448 Relationship of EIS to other considerations.
 197-11-450 Cost-benefit analysis.
 197-11-455 Issuance of DEIS.
 197-11-460 Issuance of FEIS.

NEW SECTION

WAC 140-09-120 PREPARATION OF EIS--ADDITIONAL CONSIDERATIONS.
 (1) Preparation of draft and final EISs (DEIS and FEIS) and draft and

final supplemental EISs (SEIS) is the responsibility of the corporation under the direction of the responsible official. Before the corporation issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by the corporation staff, the applicant, or by a consultant selected by the corporation or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the corporation will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the corporation's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(3) The corporation may require an applicant to provide information the corporation does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or information that is being requested from another agency. (This does not apply to information the corporation may request under another rule or statute.)

PART FIVE - COMMENTING

NEW SECTION

WAC 140-09-128 ADOPTION BY REFERENCE. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The corporation adopts the following sections by reference, as supplemented in this part:

WAC

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

NEW SECTION

WAC 140-09-130 PUBLIC NOTICE. (1) Whenever the corporation issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the corporation shall give public notice as follows:

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

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

(i) Posting the property, for site-specific proposals;

(ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

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

(vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas).

(c) Whenever the corporation issues a DS under WAC 197-11-360(3), the corporation shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

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

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

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(c) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

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

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

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

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

NEW SECTION

WAC 140-09-140 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CORPORATION. (1) The administrator of the Washington state convention and trade center shall be responsible for preparation of written comments for the corporation in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

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

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

NEW SECTION

WAC 140-09-150 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the corporation's own environmental compliance. The corporation adopts the following sections by reference:

WAC

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

PART SEVEN - SEPA AND AGENCY DECISIONS

NEW SECTION

WAC 140-09-155 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The corporation adopts the following sections by reference:

WAC

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.

NEW SECTION

WAC 140-09-160 SUBSTANTIVE AUTHORITY. (1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the Washington state convention and trade center.

(2) The corporation may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The corporation has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The corporation may deny a permit or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.

(4) The corporation designates and adopts by reference the following policies as the basis for the corporation's exercise of authority pursuant to this section:

(a) The corporation shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

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

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

(iii) Attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve when feasible important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and support recycling of depletable resources.

(b) The corporation recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(5) To the extent that the appeal provision of RCW 43.21C.060 may be applicable to the corporation, the corporation hereby eliminates any appeal to the legislative authority of the corporation of decisions to grant, condition, or deny a proposal.

NEW SECTION

WAC 140-09-173 NOTICE/STATUTE OF LIMITATIONS. (1) The corporation, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

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

PART EIGHT - DEFINITIONS

NEW SECTION

WAC 140-09-175 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains uniform usage and definitions of terms under SEPA. The corporation adopts the following sections by reference, as supplemented by WAC 140-09-040:

WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	FIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-748	Environmentally sensitive area.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Land covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

PART NINE - CATEGORICAL EXEMPTIONS

NEW SECTION

WAC 140-09-180 ADOPTION BY REFERENCE. The corporation adopts by reference the following rules for categorical exemptions, as supplemented in this chapter:

WAC

- 197-11-800 Categorical exemptions.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

PART TEN - AGENCY COMPLIANCE

NEW SECTION

WAC 140-09-185 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, listing agencies with environmental expertise, selecting the lead agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The corporation adopts the following sections by reference, as supplemented by WAC 140-09-050 and 140-09-053 and this part:

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DCE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

NEW SECTION

WAC 140-09-200 FEES. The corporation may require the following fees for its activities in accordance with the provisions of this chapter:

The corporation may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by chapter 42.17 RCW.

NEW SECTION

WAC 140-09-220 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.

PART ELEVEN - FORMS

NEW SECTION

WAC 140-09-230 ADOPTION BY REFERENCE. The corporation adopts the following forms and sections by reference:

WAC

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