

request, to any member of the public. A charge of \$2.80 shall be made for each copy of this report: *Provided, however,* That copies of the annual report shall be provided without charge as follows: (1) to the secretary of the senate for use of senate committees, fifteen copies; (2) to the chief clerk of the house for use of house committees, twenty copies; (3) to the state library, two copies; (4) to the state law library, two copies; (5) to licensed agents of suppliers of liquor with whom the board does business, one copy each; (6) to recognized news reporting services maintaining permanent offices at the capitol, one copy each. One copy of the annual report shall also be provided without charge, upon request, to legislators, governmental and nonprofit organizations, academic research students, libraries, and alcoholism information and treatment centers. [Statutory Authority: RCW 66.08.030, 66.98.070, and Title 34 RCW. 78-05-003 (Order 65, Resolution 74), § 314-62-020, filed 4/6/78; 78-02-039 (Order 63), § 314-62-020, filed 1/17/78.]

**Title 320 WAC
MEDICAL DISCIPLINARY BOARD**

Chapters

320-18 Standards for professional conduct.

Chapter 320-18 WAC

STANDARDS FOR PROFESSIONAL CONDUCT

WAC

320-18-010 Prescriptions—Schedule II stimulant drugs.

WAC 320-18-010 Prescriptions—Schedule II stimulant drugs. (1) A physician shall be guilty of unprofessional conduct if he or she prescribes, orders, dispenses, administers, supplies or otherwise distributes any amphetamines or other Schedule II nonnarcotic stimulant drug to any person except for the therapeutic treatment of:

- (a) narcolepsy
- (b) hyperkinesia
- (c) brain dysfunction of sufficiently specific diagnosis, or etiology which clearly indicates the need for these substances in treatment or control
- (d) epilepsy
- (e) differential psychiatric evaluation of depression
- (f) depression shown to be refractory to other therapeutic modalities;

or for the clinical investigation of the effects of such drugs or compounds in which case an investigative protocol must be submitted to and reviewed and approved by the medical disciplinary board before the investigation has begun.

(2) A physician prescribing or otherwise distributing controlled substances as permitted by section 1 shall maintain a complete record which must include:

- (a) documentation of the diagnosis and reason for prescribing
- (b) name, dose, strength, and quantity of drug, and the date prescribed or distributed.

(3) The records required by section 2 shall be made available for inspection by the board or its authorized representative upon request.

(4) Schedule II stimulant drugs shall not be dispensed or prescribed for the treatment or control of exogenous obesity. [Statutory Authority: RCW 18.72.150(1). 79-02-044 (Order 296, Resolution 296), § 320-18-010, filed 1/29/79.]

Title 332 WAC

NATURAL RESOURCES, BOARD AND DEPARTMENT OF

Chapters

332-17 Geothermal drilling rules and regulations.
332-24 Forest protection.
332-40 Guidelines interpreting and implementing the State Environmental Policy Act.
332-52 Managed lands and roads—Use of.
332-100 Leases, sales, rights of way, etc.

Chapter 332-17 WAC

GEOHERMAL DRILLING RULES AND REGULATIONS

WAC

332-17-010 Inspection.
332-17-020 General rules.
332-17-030 Supremacy of special rules and orders.
332-17-100 Application for permit to commence drilling, re-drilling or deepening.
332-17-110 Casing requirements.
332-17-120 Blowout prevention.
332-17-130 Drilling fluid.
332-17-140 Well logging.
332-17-150 Removal of casing.
332-17-160 Drilling bond.
332-17-165 Cancellation of bond.
332-17-200 Transfer of jurisdiction to department of ecology.
332-17-300 Proper completion and abandonment.
332-17-310 Abandonment procedures.
332-17-320 Suspension.
332-17-340 Notice of change of ownership.
332-17-400 Records.
332-17-410 Vertical and directional wells.
332-17-420 Department to witness tests.
332-17-430 Well designation.
332-17-440 Well spacing.
332-17-450 Right of entry.
332-17-460 Pits or sumps.

WAC 332-17-010 Inspection. The department shall inspect all geothermal operations for the purpose of obtaining compliance with the rules, regulations, and orders promulgated by authority of the Geothermal

Resources Act, chapter 43, Laws of 1974 ex. sess. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-010, filed 1/4/79.]

WAC 332-17-020 General rules. General rules shall be state-wide in application unless otherwise specifically stated and shall be applicable to all lands within the jurisdiction of the state of Washington. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-020, filed 1/4/79.]

WAC 332-17-030 Supremacy of special rules and orders. Special rules and orders will be issued as required and shall prevail as against general rules if in conflict therewith. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-030, filed 1/4/79.]

WAC 332-17-100 Application for permit to commence drilling, redrilling or deepening. (1) The owner or operator of any well, or proposed well, before commencing the drilling, redrilling, or deepening of any wells shall file with the department a written application in triplicate of the intention to commence such drilling, redrilling or deepening accompanied by a fee of two hundred dollars as prescribed in RCW 79.76.070, except no fee is required for the drilling of core holes. The application shall be on forms as prescribed by the department and contain the following:

- (a) The name of operator or company and address.
- (b) Description of the lease or property including acres together with the name and address of the owner or owners of surface and mineral rights.
- (c) The proposed location of the well or wells including a typical layout showing the position of mud tanks, reserve pits, cooling towers, pipe racks, etc.
- (d) Existing and planned access and lateral roads.
- (e) Location and source of water supply and road building material.
- (f) Location of supporting facilities.
- (g) Other areas of potential surface disturbances.
- (h) The topographic features of the land, including drainage patterns.
- (i) Methods for disposing of waste materials.
- (j) The proposed drilling and casing plan.
- (k) A surveyed plat showing the surface and expected bottom-hole locations and the distances from the nearest section or tract lines as shown on the official plat of survey or protracted surveys of each well or wells. The scale shall not be less than 1:24,000.
- (l) A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to, the prevention or control of:
 - (i) fires,
 - (ii) soil erosion,
 - (iii) pollution of surface and ground waters,
 - (iv) damage to fish and wildlife or other natural resources,
 - (v) air and noise pollution, and

(vi) hazards to public health and safety during operational activities.

(m) Such other pertinent information or data which the department may require to support the application for the development of geothermal resources and the protection of the environment.

Provisions for monitoring may be required as deemed necessary by the department to ensure compliance with these regulations.

The collection of data concerning existing air and water quality, noise, seismic and land subsidence activities, and the ecological system of the area may be required as deemed necessary by the department.

(2) An application for the drilling of core holes shall contain the following:

- (a) Name and address of the operator or company.
- (b) Name and number, location of the core hole or holes to the nearest quarter-quarter section or lot.
- (c) Proposed depth of each core hole, but not to exceed 750 feet into bedrock.
- (d) A map of sufficient scale to show topography and drainage patterns, access roads, and the proposed core hole locations. A metes and bounds description of each core hole location shall be provided to the department within thirty days of completion of the core hole or the approved core hole program.

(3) Well names and numbers shall not be changed without first obtaining the written approval of the department. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-100, filed 1/4/79.]

WAC 332-17-110 Casing requirements. (1) All wells shall be cased to protect or minimize damage to the environment, surface and ground waters, geothermal resources and health and property. The department shall approve proposed well spacing and well casing programs or prescribe such modifications to the programs as the department determines necessary for proper development, giving consideration to such factors as:

- (a) Topographic characteristics of the area.
- (b) Hydrologic, geologic, or reservoir characteristics of the area.
- (c) The number of wells that can be economically drilled to provide the necessary volume of geothermal resources for the intended use.
- (d) Protection of correlative rights.
- (e) Minimizing well interference.
- (f) Unreasonable interference with multiple use of lands.
- (g) Protection of the environment.

(2) Casing specifications shall be established on an individual well basis. The following specifications are general, but should be used as guidelines in submitting drilling permit applications.

(a) *Conductor pipe.* Annular space shall be cemented solid from the shoe to surface. An annular blowout preventer, or equivalent, remotely controlled hydraulically operated including a drilling spool with side outlets or equivalent may be required by the department. A kill line and blowdown line with appropriate fittings shall be connected to the drilling spool when same is required.

Conductor casing shall be set to a minimum depth of 15 meters (50 feet).

(b) *Surface casing.* This casing shall be set at a depth equivalent to, or in excess of, ten percent of the proposed depth of the well, provided, however, such depth shall not be less than 60 meters (200 feet) or extend less than 30 meters (100 feet) into bedrock. Surface casing holes shall be logged with an induction electric log, or equivalent, prior to running surface casing.

(c) *Intermediate casing.* This casing shall be required whenever anomalous pressure zones, cave-ins, washouts, abnormal temperature zones, uncased fresh water aquifers, uncontrollable lost circulation zones, or other drilling hazards are present or occur, and whenever the surface casing has not been cemented through competent rock units. Intermediate casing strings shall be cemented solid if possible from the shoe to surface. If a liner is used as an intermediate string, the lap shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next casing string has been achieved. The liner overlap shall be a minimum of 30 meters (100 feet). The test shall be recorded in the driller's log and may be witnessed by a representative of the department.

(d) *Production casing.* This casing may be set above or through the producing or injection zone and cemented above the objective zones. Production casings shall be cemented to the surface or lapped into the intermediate string. Overlap shall not be less than 30 meters (100 feet) and shall be pressure tested. Lap or casing failure shall require repair, recementing, and successful retesting.

(e) *Cementing of casing.* Conductor and surface casing strings shall be cemented with a quantity of cement sufficient to fill the annular space from the shoe to surface. A high temperature resistant admix shall be used in cementing production casing unless waived by the department, and shall be cemented in a manner necessary to exclude, isolate, or segregate overlying formation fluids from the geothermal resources zone and to prevent the movement of fluids into possible fresh water zones.

A temperature or cement bond log may be required by the department if an unsatisfactory cementing job is indicated.

(f) *Pressure testing.* Prior to drilling out the casing shoe after cementing, all casing strings set to a depth of 152 meters (500 feet) or less except for conductor casing, shall be pressure tested to a minimum pressure of 35 bars (500 psi). Casing strings set to a depth of 152 meters (500 feet) or greater shall be pressure tested to a minimum pressure of 69 bars (1,000 psi) or 0.045 bars/meter (0.2 psi/ft) whichever is greater. Such test shall not exceed the rated working pressure of the casing or the blowout preventor stack assembly, whichever is lesser. [Statutory Authority: RCW 79.76.050(2), 79-02-001 (Order), § 332-17-110, filed 1/4/79.]

WAC 332-17-120 Blowout prevention. Blowout prevention and related control equipment shall be installed, tested immediately thereafter, and properly maintained ready for use until drilling operations are

completed. Certain components, such as packing elements and ram rubbers, shall be of high temperature resistant material as necessary. All kill lines, blowdown lines, manifolds, and fittings shall be steel and have temperature derated minimum working pressure rating equivalent to the maximum anticipated wellhead surface pressure. Unless otherwise specified, blowout prevention equipment shall have manually operated gates and remotely controlled hydraulic actuating systems and accumulators of sufficient capacity to close all of the hydraulically operated equipment and have a minimum pressure of 69 bars (1,000 psi) remaining on the accumulator. Dual control stations shall be installed with a high pressure backup system. One control panel shall be located at the driller's station and one control panel shall be located on the ground at least 15 meters (50 feet) away from the wellhead or rotary table. Blowout prevention assemblies involving the use of air or other gaseous fluid drilling systems may include, but are not limited to, a rotating head, a double ram blowout preventer or equivalent, a banjo-box or an approved substitute therefore and a blind ram blowout preventer or gate valve, respectively. Exceptions to the requirements of this paragraph will be considered by the department for areas of known surface stability and low subsurface formation pressure and temperatures.

(1) **Conductor casing.** One remotely controlled hydraulically operated expansion type preventer or acceptable alternative, including a drilling spool with side outlets or equivalent, may be required before drilling below conductor casing.

(2) **Surface, intermediate and production casing.** Prior to drilling below any of these strings, blowout prevention equipment shall include a minimum of:

(a) One expansion-type preventer and accumulator or a rotating head,

(b) A manual and remotely controlled hydraulically operated double ram blowout preventer or equivalent having a temperature derated minimum working pressure rating which exceeds the maximum anticipated surface pressure at the anticipated reservoir fluid temperature,

(c) A drilling spool with side outlets or equivalent,

(d) A fillup line,

(e) A kill line equipped with at least one valve, and

(f) A blowdown line equipped with at least two valves and securely anchored at all bends and at the end.

(3) **Testing and maintenance.** Ram-type blowout preventers and auxiliary equipment shall be tested to a minimum of 69 bars (1,000 psi) or to the working pressure of the casing or assembly, whichever is the lesser. Expansion-type blowout preventers shall be tested to 70 percent of the above pressure testing requirements.

(a) The blowout prevention equipment shall be pressure tested:

(i) When installed,

(ii) Prior to drilling out plugs and/or casing shoes,

(iii) Not less than once each week, alternating the control stations, and

(iv) Following repairs that require disconnecting a pressure seal in the assembly.

(b) During drilling operations, blowout prevention equipment shall be actuated to test proper functioning as follows:

(i) Once each trip for blind and pipe rams, but not less than once each day for pipe rams, and

(ii) At least once each week on the drill pipe for expansion-type preventers.

All flange bolts shall be inspected at least weekly and retightened as necessary during drilling operations. The auxiliary control systems shall be inspected daily to check the mechanical condition and effectiveness and to ensure personnel acquaintance with the method of operation. Blowout prevention and auxiliary control equipment shall be cleaned, inspected and repaired, if necessary, prior to installation to assure proper functioning. Blowout prevention controls shall be plainly labeled, and all crew members shall be instructed on the function and operation of such equipment. A blowout prevention drill shall be conducted weekly for each drilling crew. All blowout prevention tests and crew drills shall be recorded on the driller's log.

(4) **Related well control equipment.** A full opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. A kelly cock shall be installed between the kelly and the swivel. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-120, filed 1/4/79.]

WAC 332-17-130 Drilling fluid. The properties, use and testing of drilling fluids and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Sufficient drilling fluid materials to ensure well control shall be maintained in the field area readily accessible for use at all times.

(1) **Drilling fluid control.** Before pulling drill pipe, the drilling fluid shall be properly conditioned or displaced. The hole shall be kept reasonably full at all times, however, in no event shall the annular mud level be deeper than 30 meters (100 feet) from the rotary table when coming out of the hole with drill pipe. Mud cooling techniques shall be utilized when necessary to maintain mud characteristics for proper well control and hole conditioning. The conditions contained herein shall not apply when drilling with air or aerated fluids.

(2) **Drilling fluid testing.** Mud testing and treatment consistent with good operating practice shall be performed daily or more frequently as conditions warrant. Mud testing equipment shall be maintained on the drilling rig at all times. The following drilling fluid system monitoring or recording devices shall be installed and operated continuously during drilling operations, with mud, occurring below the shoe of the conductor casing:

(a) High-low level mud pit indicator including a visual and audio-warning device, if applicable,

(b) Degassers if applicable, and desilters and desanders if required for solids control,

(c) A mechanical, electrical, or manual surface drilling fluid temperature monitoring device. The temperature of the drilling fluid going into and coming out of

the hole shall be monitored, read, and recorded on the driller's or mud log for a minimum of every 9 meters (30 feet) of hole drilled below the conductor casing, and

(d) A hydrogen sulfide indicator and alarm shall be installed in areas suspected or known to contain hydrogen sulfide gas which may reach levels considered to be dangerous to the health and safety of personnel in the area.

No exceptions to these requirements will be allowed without the specific prior permission of the department. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-130, filed 1/4/79.]

WAC 332-17-140 Well logging. All wells shall be logged with an induction electric log or equivalent from total depth to the shoe of the conductor casing. The department may grant an exception to this requirement when well conditions make it impractical or impossible to meet the above requirements. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-140, filed 1/4/79.]

WAC 332-17-150 Removal of casing. No person shall remove casing or any portion thereof from any well without first obtaining prior written approval from the department. In the request to remove casing, the applicant must describe the condition of the well, the proposed casing to be removed, all casing in the hole, location of plugs, and perforations. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-150, filed 1/4/79.]

WAC 332-17-160 Drilling bond. The owner or operator who proposes to drill, redrill, or deepen a well for geothermal resources shall file with the department a good and sufficient bond in the sum of fifteen thousand dollars for each well or a fifty thousand dollar blanket bond for one or more wells being drilled, redrilled, or deepened at any time. The bond shall be filed with the department at the time of filing the application to drill, redrill, or deepen a well or wells. Approval of the bond by the department must be obtained prior to the commencement of drilling, redrilling, or deepening. The bond shall be made payable to the state of Washington, conditioned for performance of the duty to properly:

(1) Drill all geothermal wells,

(2) Operate and maintain producing wells, and

(3) Plug each dry or abandoned well in accordance with applicable rules and regulations of the department.

The bond shall be executed by such owner or operator as principal and by a surety company authorized to do business in the state of Washington as surety, conditioned upon the faithful compliance by the principal with the laws, rules, regulations, and orders under the Geothermal Resources Act and shall secure the state against all losses, charges, and expenses incurred by the state in obtaining such compliance by the principal of the bond.

A single core-hole bond shall be in the sum of five thousand dollars and a blanket core-hole bond shall be in the sum of twenty-five thousand dollars. [Statutory

Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-160, filed 1/4/79.]

WAC 332-17-165 Cancellation of bond. Termination and/or cancellation of any bond will not be permitted until the well, or wells, for which the bond has been issued have been properly abandoned or another valid bond for such well or wells has been submitted therefore and approved by the department. A bond may be canceled upon transfer of the jurisdiction of the well to and acceptance of jurisdiction by the department of ecology. No bond shall be released until the department in writing shall have authorized such release. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-165, filed 1/4/79.]

WAC 332-17-200 Transfer of jurisdiction to department of ecology. Transfer of jurisdiction over a well to the department of ecology may be permitted provided it has been established that it is not technologically practical to produce electricity commercially or usable minerals cannot be derived from the well and provided, further, the department of ecology has by affidavit indicated its willingness to assume such responsibility. Transfer of such jurisdiction will relieve the owner or operator of further compliance with the provisions of the Geothermal Resources Act and these rules and regulations, however, the owner or operator shall be subject to applicable laws and regulations relating to wells drilled for appropriation and use of ground waters. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-200, filed 1/4/79.]

WAC 332-17-300 Proper completion and abandonment. Completion and abandonment of any well or wells shall be conditioned upon implementation of adequate procedures to protect the environmental and esthetic qualities of the drill site, access roads, and other areas that were disturbed as a result of drilling or related operations.

(1) **Completion.** For the purposes of the Geothermal Resources Act and these rules and regulations, a well will be considered as properly completed when drilling has been completed and a production head has been installed on the well pending actual utilization in the production of geothermal resources as defined in this act. Suspension of a well after completion and prior to actual production shall not exceed six months duration unless approved in writing by the department.

(2) **Abandonment.** A well shall be properly abandoned for the purposes of this act when:

(a) Drilling, redrilling, or deepening operations have ceased; or geothermal resources cannot be produced from the well; or the well no longer commercially produces geothermal resources; and proper cement plugs have been placed by the owner or operator and approved by the department; and

(b) The owner or operator has taken all appropriate steps to protect surface and ground waters and prevent the escape of deleterious substances to the surface.

(3) **Site restoration.** Cellars, pads, structures, and other facilities shall be removed. All drilling supplies and scrap shall be removed. The surface shall be graded and revegetated as appropriate to the immediate area or as otherwise specified by the department. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-300, filed 1/4/79.]

WAC 332-17-310 Abandonment procedures. No well shall be plugged and abandoned until the manner and method of plugging have been approved or prescribed by the department. The owner or operator shall give notice to the department of the intention to abandon the well and the date and time abandonment procedures will commence.

(1) The notice shall specify the condition of the well and the proposed method of abandonment. The owner or operator shall furnish such additional information concerning the well condition and abandonment procedures as may be required by the department.

(2) The owner or operator shall within twenty-four hours after giving notice of intent to abandon provide the department with a written notice setting forth the proposed abandonment procedures and the condition of the well.

(3) All wells to be abandoned shall have cement plugs placed in the well as prescribed herein. Such cement shall consist of a high temperature resistant admix unless waived by the department in accordance with the particular circumstances existing in the well.

(a) **Cased holes.**

(i) A cement plug shall be placed across all perforations in the casing, extending 30 meters (100 feet) below and 30 meters (100 feet) above the perforated interval.

(ii) A cement plug shall be placed across all casing stubs, laps, and liner tops, extending a minimum of 15 meters (50 feet) below and 15 meters (50 feet) above such stub, lap, or liner top.

(iii) Casing shoes shall be straddled by a cement plug with a minimum of 30 meters (100 feet) below and 30 meters (100 feet) above and below the shoe.

(iv) All annular space open to the surface shall be filled with cement to the surface.

(v) All casing exposed to the surface shall be cut off 6 feet below ground surface unless otherwise designated by the department.

(vi) A surface plug shall be placed in the casing extending for a minimum of 10 meters (30 feet) below the approved cut off top of the casing. The casing shall be capped by welding a steel plate on the casing stub.

(b) **Open holes.** Cement plugs shall be placed across fresh water zones, geothermal resource zones, to isolate formations, and to prevent interformational migration or contamination of fluids. Such plugs shall extend a minimum of 30 meters (100 feet) above and below all such zones.

(4) All intervals between plugs shall be filled with drilling mud.

(5) Within thirty days after plugging a well the owner or operator shall file an affidavit with the department setting forth in detail the method used in plugging the

well and restoring the site. The affidavit shall be made on a form supplied by the department. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-310, filed 1/4/79.]

WAC 332-17-320 Suspension. Drilling equipment shall not be removed from any well where drilling operations have been suspended before adequate measures have been taken to close the well and protect the surface and subsurface resources including fresh water aquifers. A suspended well shall be mudded and cemented as set forth in WAC 332-17-310 of these rules and regulations or as otherwise approved by the department except that WAC 332-17-310(3)(a)(iv)-332-17-310(3)(a)(vi) will not be required. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-320, filed 1/4/79.]

WAC 332-17-340 Notice of change of ownership. Every person who acquires the right of ownership or right of operation of a geothermal well or wells shall within ten days notify the department in writing of the newly acquired ownership or right of operation and provide a bond equivalent to the bond supplied by the prior owner or operator. Each notice shall contain the following:

- (1) Name, address, and signature of the person from whom the well or land was acquired;
- (2) Name and location of such well or wells;
- (3) Date of acquisition; and
- (4) Description of the land upon which such well or wells is situated. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-340, filed 1/4/79.]

WAC 332-17-400 Records. The owner or operator of any well or wells shall keep or caused to be kept careful and accurate logs, core records, and history of the drilling of the well. The logs and tour reports shall be kept in the local office of the owner or operator and shall be subject during business hours to inspection by the department except during casing or abandonment operations when appropriate logs will be available at the well site.

Records that shall be filed with the department as set forth in RCW 79.76.210 are:

(1) The drilling log and core record showing the lithologic characteristics and depths of formations encountered, and the depths and temperatures of water-bearing and steam-bearing strata, and the temperature, chemical compositions, and other chemical and physical characteristics of fluids encountered. Core records shall show the depth, lithologic character, and the fluid content of cores obtained.

(2) The well history shall describe in detail in chronological order on a daily basis all significant operations carried out and equipment used during all phases of drilling, testing, completion, recompletion, and abandonment of the well.

(3) The well summary report shall accompany the drilling logs and well history report. It shall show the

spud date, completion date, abandonment date, casing summary, fresh water zones, producing zones, total depth, well location, tops of formations penetrated and bottom hole temperature.

(4) Production records shall be submitted monthly to the department on or before the 10th of each month for the preceding month on a form approved by the department.

(5) Electric logs, directional logs, physical or chemical logs, tests, water analysis, surveys including temperature surveys, and such other logs or surveys as may be run.

(6) A set of ditch samples if taken at not less than 30 meters (100 feet) intervals. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-400, filed 1/4/79.]

WAC 332-17-410 Vertical and directional wells. Deviation surveys shall be taken on all wells during the normal course of drilling at intervals not to exceed 152 meters (500 feet). The department may require a directional survey giving both inclination and azimuth or a dipmeter to be obtained on all wells. In calculating all surveys, a correction from true north to Lambert-Grid north shall be made after making the magnetic to true north correction. All surveys shall be filed with department as set forth in WAC 332-17-400. Wells are considered to be directional if inclination from vertical exceeds an average of five degrees. In directional wells directional surveys shall be obtained at intervals not to exceed 30 meters (100 feet) prior to, or upon setting any casing string or lines (except conductor casing) and total depth. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-410, filed 1/4/79.]

WAC 332-17-420 Department to witness tests. Sufficient notice shall be given in advance to the department of the date and time when the owner or operator expects to run casing, test casing, conduct a drill stem test, or log a well in order that the department may have a representative on the drill site as a witness. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-420, filed 1/4/79.]

WAC 332-17-430 Well designation. The owner or operator shall place in a conspicuous location near the well site a sign setting forth the name of the owner or operator, lease name, well number, permit number, and the quarter-quarter section or lot, township, and range of the well location. Such well designation shall maintained until the well has been abandoned. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-430, filed 1/4/79.]

WAC 332-17-440 Well spacing. The department will approve proposed well spacing programs or prescribe such modifications to the programs as it determines necessary for proper development, giving consideration to such factors as:

- (1) Topography of the area;
- (2) Geologic conditions of the reservoir;

(3) Minimum number of wells required for adequate development; and

(4) Protection of environment. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-440, filed 1/4/79.]

WAC 332-17-450 Right of entry. Department representatives shall have the right to enter upon any lands and examine such records related to the drilling, re-drilling, deepening, or the completion, or the abandonment of, or production from any geothermal well to ensure compliance with the Geothermal Resources Act and these rules. Any owner or operator who denies the right of entry of a department representative or willfully hinders or delays the enforcement of the provisions of the act and these rules or who otherwise violates, fails, neglects, or refuses to comply with any of the provisions of the act or these rules will be subject to the penalties as set forth in RCW 79.76.260. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-450, filed 1/4/79.]

WAC 332-17-460 Pits or sumps. The owner or operator shall provide pits and/or sumps of adequate capacity and design to retain all fluids and materials necessary to the drilling, production, and related operations on the well. No contents of pits and/or sumps shall be allowed to:

- (1) Contaminate streams, artificial canals, waterways, ground waters, lakes, or rivers;
- (2) Adversely affect the environment, persons, plants, and wildlife; and
- (3) Adversely affect esthetic values of the property or adjacent properties.

When pits and/or sumps are no longer needed, they shall be pumped out and the contents disposed of in approved disposal sites unless otherwise approved by the department. [Statutory Authority: RCW 79.76.050(2). 79-02-001 (Order), § 332-17-460, filed 1/4/79.]

Chapter 332-24 WAC FOREST PROTECTION

WAC	
332-24-020	Promulgation.
332-24-025	Definition.
332-24-027	Felling of snags.
332-24-050	Repealed.
332-24-192	Exemptions from burning permit requirements—Parts of Snohomish County.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-24-050	Snags—County average per acre. [Rule of 1/15/54.] Repealed by 79-12-015 (Order 336), filed 11/14/79. Statutory Authority: RCW 76.04.222 and 1979 ex.s. c 8.
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WAC 332-24-020 Promulgation. Pursuant to chapter 8, Laws of 1979 ex. sess., and RCW 76.04.222, the department of natural resources, recognizing the need to assure continued existence of snag dependent wildlife

and continued forest growth while minimizing the risk of destruction by conflagration, promulgates the following regulations, WAC 332-24-020 through 332-24-027 defining and regulating the felling of snags which represent a substantial deterrent to effective fire control action in forest areas. [Statutory Authority: RCW 76.04.222 and 1979 ex.s. c 8. 79-12-015 (Order 336), § 332-24-020, filed 11/14/79.]

WAC 332-24-025 Definition. "Snag" shall mean a standing dead conifer tree over twenty-five feet in height and sixteen inches and over in diameter measured at a point four and one-half feet above the average ground level at the base. [Statutory Authority: RCW 76.04.222 and 1979 ex.s. c 8. 79-12-015 (Order 336), § 332-24-025, filed 11/14/79.]

WAC 332-24-027 Felling of snags. (1) Snags within areas of extreme fire hazard requiring abatement, as defined by WAC 332-24-380, shall be felled concurrently with the logging operation, unless:

(a) Such snag contains a visible nest of a species of wildlife designated by the United States Fish and Wildlife Service as threatened or endangered, or

(b) The department, upon written request of the landowner, determines in writing that such snag does not represent a substantial deterrent to effective fire control action.

(2) The department may designate in writing that additional snags be felled concurrently with the logging operation if, in the department's opinion, they represent a substantial deterrent to effective fire control action, unless such snag contains a visible nest of a threatened or endangered species. [Statutory Authority: RCW 76.04.222 and 1979 ex.s. c 8. 79-12-015 (Order 336), § 332-24-027, filed 11/14/79.]

WAC 332-24-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-24-192 Exemptions from burning permit requirements—Parts of Snohomish County. (1) Pursuant to the authority of RCW 76.04.150, as amended by section 1, chapter 82, Laws of 1965, the parts of Snohomish County described in subsection (2), below, are exempted from the requirements of said RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) All parts of Snohomish County lying within the following described line are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with subsection (1), above:

Beginning at the point on the east boundary of the City of Everett, Snohomish County, Washington, at which the Hewitt Avenue Bridge intersects the east boundary, thence southerly along

said east boundary to Lowell-Larimer's Corner Road (Bluff Road); thence southeasterly along said road to its point of intersection with the north line of section 36, township 28 north, range 5 east, W.M.; thence easterly along the said north line and along the north line of sections 31 and 32, township 28 north, range 6 east, W.M., to the point said north line intersects 127th Avenue (Lord's Hill Road), thence northerly one-half mile along said avenue to the Snohomish-Monroe Road; thence southeasterly along said road to 164th Street; thence easterly along said street to Primary State Highway No. 522; thence southwesterly along said highway to the Snoqualmie-King County Road; thence southeasterly along said road to the point of its intersection with the Snohomish-King County Line; thence easterly along said county line to the point of its intersection with Secondary State Highway No. 203 (Monroe-Duvall Highway); thence northerly along said highway to the boundary of the City of Monroe; thence northerly along said boundary to United States Highway No. 2; thence northwesterly along said highway to Roosevelt Road; thence northerly along said road to 159th Avenue (Zuber Road); thence northerly along said avenue to 100th Street (Westwick Road); thence westerly along said street to the southwest corner of section 15, township 28 north, range 6 east, W.M., and 147th Avenue (Jauntz and Nelson Road); thence northerly along said avenue to 68th Street (Three Lakes Road); thence westerly along said street to the east bank of the Pilchuck River; thence northerly along said east bank to a point due east of 52nd Street (Foss Road); thence westerly across said river and continuing westerly along said street to 87th Avenue (Fobes Cutoff Road); thence northerly along said avenue to its point of intersection with the north line of section 36, township 29 north, range 5 east, W.M.; thence westerly along the said north line and continuing along the north line of section 35, township 29 north, range 5 east, W.M., to its point of intersection with United States Highway No. 2; thence northwesterly along said highway to Hewitt Avenue East (Calaveros Corner); thence westerly along said avenue to the point of beginning.

[Statutory Authority: RCW 76.04.020 and 76.04.190. 79-09-120 (Order 331), § 332-24-192, filed 9/4/79; Order 157, § 332-24-192, filed 4/2/73; Docket 236, filed 7/20/66.]

Chapter 332-40 WAC

GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC

332-40-020	Purpose.
332-40-037	SEPA public information center.
332-40-040	Definitions.

332-40-050	Use of the environmental checklist form.
332-40-055	Timing of the EIS process.
332-40-060	Scope of a proposal and its impacts for the purposes of lead agency determination, threshold determination, and EIS preparation.
332-40-100	Summary of information which may be required of a private applicant.
332-40-170	Categorical exemptions.
332-40-175	Exemptions and nonexemptions applicable to specific state agencies.
332-40-177	Environmentally sensitive areas.
332-40-180	Exemption for emergency actions.
332-40-190	Use and effect of categorical exemptions.
332-40-203	Determination of lead agency—Procedures.
332-40-205	Lead agency designation—Department proposals.
332-40-220	Lead agency designation—Private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
332-40-240	Agreements as to lead agency status.
332-40-260	Dispute as to lead agency determination—Resolution by CEP.
332-40-300	Threshold determination requirement.
332-40-310	Threshold determination procedures—Environmental checklist.
332-40-315	Actions requiring a threshold determination.
332-40-320	Threshold determination procedures—Initial review of environmental checklist.
332-40-330	Threshold determination procedures—Information in addition to checklist.
332-40-340	Threshold determination procedures—Negative declarations.
332-40-345	Assumption of lead agency status by the department when it is an agency with jurisdiction over a proposal—Prerequisites, effect and form of notice.
332-40-350	Affirmative threshold determination.
332-40-355	Form of declaration of significance/nonsignificance.
332-40-360	Threshold determination criteria—Application of environmental checklist.
332-40-365	Environmental checklist.
332-40-370	Withdrawal of affirmative threshold determination.
332-40-405	Purpose and function of a draft EIS.
332-40-410	Pre-draft consultation procedures.
332-40-420	Preparation of EIS by persons outside the department.
332-40-440	Contents of a draft EIS.
332-40-442	Special considerations regarding contents of an EIS on a nonproject action.
332-40-444	List of elements of the environment.
332-40-450	Public awareness of availability of draft EIS.
332-40-455	Circulation of the draft EIS—Review period.
332-40-460	Specific agencies to which draft EIS shall be sent.
332-40-465	Agencies possessing environmental expertise.
332-40-470	Cost to the public for reproduction of environmental documents.
332-40-480	Public hearing on a proposal—When required.
332-40-500	Department responsibilities when consulted as an agency with jurisdiction.
332-40-535	Cost of performance of consulted agency responsibilities.
332-40-540	Limitations on responses to consultation.
332-40-545	Effect of no written comment.
332-40-570	Preparation of the final EIS—Contents—When no critical comments received on the draft EIS.
332-40-580	Preparation of the final EIS—Contents—When critical comments received on the draft EIS.
332-40-600	Circulation of the final EIS.
332-40-650	Effect of an adequate final EIS prepared pursuant to NEPA.
332-40-660	Use of previously prepared EIS for a different proposed action.
332-40-690	Use of another lead agency's EIS by the department for the same proposal.
332-40-695	Draft and final supplements to a revised EIS.
332-40-710	No action for seven days after publication of the final EIS.
332-40-800	Amendments to this chapter.

332-40-835 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-40-835 Regional SEPA public information centers. [Order 259, § 332-40-835, filed 6/10/76; Order 257, § 332-40-835, filed 5/21/76.] Repealed by 78-05-015 (Order 292), filed 4/11/78. Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810.

WAC 332-40-020 Purpose. (1) The purpose of this chapter is to establish the department of natural resources rules interpreting and implementing the state environmental policy act of 1971 (SEPA) and the SEPA guidelines chapter 197-10 WAC.

(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 department compliance with the national environmental policy act of 1969 (NEPA). When the department is required to perform some element of compliance with NEPA, such compliance will be governed by the applicable federal statute and regulations and not by these guidelines. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-020, filed 4/11/78; Order 259, § 332-40-020, filed 6/10/76; Order 257, § 332-40-020, filed 5/21/76.]

WAC 332-40-037 SEPA public information center.

(1) The department's SEPA Public Information Center will be located in the Supervisor's Office, Room 202, Second Floor of the Public Lands Building in Olympia, Washington.

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

(a) All draft and final EISs. (See WAC 332-40-460 and 332-40-600)

(b) All final declarations of nonsignificance for which a proposed declaration of nonsignificance has been circulated. (See WAC 332-40-340(7)) [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-037, filed 4/11/78; Order 259, § 332-40-037, filed 6/10/76; Order 257, § 332-40-037, filed 5/21/76.]

WAC 332-40-040 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 332-40-170, 332-40-175 and 332-40-180 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 or zoning ordinances;

(iii) the adoption of any policy, plan or program which will govern the development of a series of functionally related major actions, but not including any policy, plan or program for which approval must be obtained from any federal agency prior to implementation;

(iv) creation of, or annexations to, any city, town or district;

(v) adoptions or approvals of utility, transportation and solid waste disposal rates;

(vi) capital budgets; and

(vii) road, street and highway plans.

(3) Agency with expertise means an agency listed in WAC 332-40-465, 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) Area Manager – Area Manager means the individual responsible for the administration of a geographical field unit, as designated by the organization plan of DNR.

(7) 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.

(8) Chief deputy supervisor means the principle assistant to the supervisor of the department.

(9) Commissioner means the commissioner of public lands who is the administrator of the department of natural resources as established by chapter 43.30 RCW.

(10) 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.

(11) 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.

(12) 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. A form substantially consistent with that in WAC 332-40-355 shall be used for this declaration.

(13) 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. A form substantially consistent with that in WAC 332-40-355 shall be used for this declaration.

(14) Department means the department of natural resources.

(15) Deputy supervisor means one of three individuals subordinate to the supervisor and chief deputy supervisor and responsible for a specific functional part of the department activities, i.e., governmental, proprietary and services.

(16) Division supervisor means the supervisor responsible for a specific functional staff unit, located in Olympia.

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

(18) 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.

(19) Environment means, and is limited to, those areas listed in WAC 332-40-444.

(20) Environmental checklist means the department's form number RES 30-1802 (REV) (5-76).

(21) Environmental coordinator means the supervisor's designee responsible for coordinating the department's duties and functions under the State Environmental Policy Act and chapter 197-10 WAC.

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

(23) Environmentally sensitive area means an area designated and mapped by a county/city pursuant to WAC 332-40-177. Certain categorical exemptions do not apply within environmentally sensitive areas.

(24) 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 332-40-570, 332-40-580 or 332-40-695.

(25) 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.

(26) Lead agency means the agency designated by WAC 332-40-200 through 332-40-270 or 332-40-345. The lead agency is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(27) 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.

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

(29) List of elements of the environment means the list in WAC 332-40-444 which must be attached to every environmental impact statement.

(30) 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.

(31) Major action means any "action" as defined in this section which is not exempted by WAC 332-40-170, 332-40-175 and 332-40-180.

(32) Nonexempt license means any license not exempt from the threshold determination requirements.

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

(34) Physical environment means, and is limited to, those elements of the environment listed under "physical environment" in WAC 332-40-444(2).

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

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

(37) 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 332-40-060.

(38) 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 332-40-045 and 332-40-305).

(39) SEPA means the state environmental policy act of 1971 chapter 43.21C RCW, as amended.

(40) Supervisor means supervisor of the department of natural resources as defined by RCW 43.30.060.

(41) 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.

(42) 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, WAC 197-10-800 & 197-10-810, 78-05-015 (Order 292), § 332-40-040, filed 4/11/78; Order 259, § 332-40-040, filed 6/10/76; Order 257, § 332-40-040, filed 5/21/76.]

WAC 332-40-050 Use of the environmental checklist form. The environmental checklist available at the department's SEPA information center will be completed for all major actions as a part of the threshold determination procedure and lead agency identification. However, where there is an agreement between the proponent of a non-exempt action (whether a private applicant or an agency which is not the lead agency) and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810, 78-05-015 (Order 292), § 332-40-050, filed 4/11/78; Order 259, § 332-40-050, filed 6/10/76; Order 257, § 332-40-050, filed 5/21/76.]

WAC 332-40-055 Timing of the EIS process. (1) The department shall integrate SEPA into its normal processes in such a way that no undue delays are caused by SEPA compliance. The purposes of SEPA are best served by consideration of environmental factors early in the preplanning stages.

(2) 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 an agency 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. The department 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.

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

(4) 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.

(5) The environmental checklist should normally be completed when an application is found to be non-exempt. In order to conserve time and avoid misunderstandings, the department's contact person should make the "action" and "exemption" determinations and assist the applicant in completing the checklist. If exempt status is questionable, a checklist should be completed and the environmental coordinator consulted.

(6) 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 threshold determination is expected to require more than fifteen days to complete and a private applicant requests notification of the date when a threshold determination will be made, the responsible official shall transmit to the private applicant a written statement as to the expected date of decision.

(7) The department, when it is a consulted agency, shall have a maximum of thirty-five days from the date of listing of the proposal in the "EIS Available Register" in which to review the draft and forward its comments and information with respect thereto to the lead agency. If the department is a consulted agency with jurisdiction and 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.

(8) There shall be allowed a period of thirty-five days from the date of the listing of the proposal in the "EIS Available Register" for the public to forward to the department any comments upon or substantive information related to the proposal and the draft EIS.

(9) The department shall prepare a final EIS within seventy-five days of the listing of the proposal in the "EIS Available Register." The department may extend the time period whenever the proposal is unusually large

in scope, or the environmental impact associated with the proposal is unusually complex.

(10) The department shall not take any final action on a project for which an EIS has been required, prior to seven days from the issuance of the final EIS and its listing in the "EIS Available Register" maintained at the department's SEPA information center. When appropriate, the responsible official may actively attempt to solicit opinions on the final EIS from citizens and agencies prior to the first major decision. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810, 78-05-015 (Order 292), § 332-40-055, filed 4/11/78; Order 259, § 332-40-055, filed 6/10/76; Order 257, § 332-40-055, filed 5/21/76.]

WAC 332-40-060 Scope of a proposal and its impacts for the purposes of lead agency determination, threshold determination, and EIS preparation. (1) The proposal considered by the department during the lead agency determination procedure, and by the department 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 department. 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. The department 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 department 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 these 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 department 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, WAC 197-10-800 & 197-10-810, 78-05-015 (Order 292), § 332-40-060, filed 4/11/78; Order 259, § 332-40-060, filed 6/10/76; Order 257, § 332-40-060, filed 5/21/76.]

WAC 332-40-100 Summary of information which may be required of a private applicant. (1) There are three areas of these guidelines where the department may 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, available at the department's SEPA information center either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. The department will not require a complete assessment or "mini-EIS" at this stage. (See WAC 332-40-310).

(3) **Threshold Determination.** When the department is the lead agency, it shall make an initial review of a completed checklist without requiring more information from a private applicant. After completing this initial review, the department 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 department, information accessible to the department 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 332-40-330.)

(4) **Draft and Final EIS Preparation.** The responsible official may at his/her option, require a private applicant to prepare an EIS under the department's direction, at the applicant's expense. 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, WAC 197-10-800 & 197-10-810, 78-05-015 (Order 292), § 332-40-100, filed 4/11/78; Order 259, § 332-40-100, filed 6/10/76; Order 257, § 332-40-100, filed 5/21/76.]

WAC 332-40-170 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, 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 any agency 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 an agency of either private or public property for any purpose.

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

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere. 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, included 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 or 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 so long as no material changes are involved.

(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 agencies.** The following administrative, fiscal and personnel activities of 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 one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(9) **Purchase or sale of real property.** The following real property transactions by an agency 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.

(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, 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 an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency 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 § 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 agency action which commits the agency 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 agencies to utilities.

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

(i) All grants of rights of way by agencies 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) **Local improvement districts.** The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 332-40-170 and 332-40-180.

(21) **Nonactions.** Proposals for activities which are not "actions" as defined in WAC 332-40-040(2) are not subject to the threshold determination and EIS requirements of this chapter.

(22) **Building codes.** The adoption by ordinance of all codes as required by the state building code act (RCW 19.27.030).

(23) **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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-170, filed 4/11/78; Order 259, § 332-40-170, filed 6/10/76; Order 257, § 332-40-170, filed 5/21/76.]

WAC 332-40-175 Exemptions and nonexemptions applicable to specific state agencies. (1) The exemptions in this section relate only to the specific activities identified within the department. The exemptions of this section are in addition to the general exemptions of WAC 332-40-170 and 332-40-180 which apply to the department, unless the general exemptions are specifically made inapplicable by this section.

(2) **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 RCW 79.01.652, but not including issuance of subsequent contracts for mining. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-175, filed 4/11/78; Order 268, § 332-40-175, filed 7/21/76; Order 259, § 332-40-175, filed 6/10/76; Order 257, § 332-40-175, filed 5/21/76.]

WAC 332-40-177 Environmentally sensitive areas.

(1) The department shall adhere to established environmentally sensitive areas adopted and mapped by the counties and cities as required by WAC 197-10-177.

(2) In these environmentally sensitive areas, certain categorical exemptions may not apply. The selection of exemptions that will not apply may be made from the following list: WAC 332-40-170(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 must 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-177, filed 4/11/78; Order 259, § 332-40-177, filed 6/10/76; Order 257, § 332-40-177, filed 5/21/76.]

WAC 332-40-180 Exemption for emergency actions. Actions which must be undertaken immediately, or within a time too short to allow full compliance with chapter 197-10 WAC, 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-180, filed 4/11/78; Order 259, § 332-40-180, filed 6/10/76; Order 257, § 332-40-180, filed 5/21/76.]

WAC 332-40-190 Use and effect of categorical exemptions. (1) Those activities excluded from the definition of "action" in WAC 332-40-040(2), or categorically exempted by WAC 332-40-170, 332-40-175, and 332-40-180, 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 RCW 43.21C.030(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 department 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.

(3) For proposals in (2) above, exempt activities or actions may be undertaken prior to the threshold determination, subject to the timing considerations in WAC 332-40-055. 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.

(4) 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-190, filed 4/11/78; Order 259, § 332-40-190, filed 6/10/76; Order 257, § 332-40-190, filed 5/21/76.]

WAC 332-40-203 Determination of lead agency--Procedures. (1) When the department is 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, the department shall determine the lead agency for that proposal. The department shall determine the lead agency for all proposals for a major action it receives, unless the lead agency has been previously determined or the department as the receiver of the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in WAC 332-40-205 through 332-40-245.

(2) If the department 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 332-40-260.

(3) If the department 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 department shall then proceed, as the lead agency, to the threshold determination procedure of WAC 332-40-300 through 332-40-390. 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 332-40-260.

(4) When the department receives a lead agency determination to which it objects it 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, the department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-203, filed 4/11/78; Order 259, § 332-40-203, filed 6/10/76; Order 257, § 332-40-203, filed 5/21/76.]

WAC 332-40-205 Lead agency designation--Department proposals. For all proposals initiated by the department, the department shall be the lead agency. 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 the department does not include proposals to license private activity. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-205, filed 4/11/78; Order 259, § 332-40-205, filed 6/10/76; Order 257, § 332-40-205, filed 5/21/76.]

WAC 332-40-220 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-220, filed 4/11/78; Order 259, § 332-40-220, filed 6/10/76; Order 257, § 332-40-220, filed 5/21/76.]

WAC 332-40-240 Agreements as to lead agency status. Any agency may assume lead agency if all agencies with jurisdiction agree. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-240, filed 4/11/78; Order 259, § 332-40-240, filed 6/10/76; Order 257, § 332-40-240, filed 5/21/76.]

WAC 332-40-260 Dispute as to lead agency determination--Resolution by CEP. In the event that the department is an agency with jurisdiction along with one or more other agencies and is 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. The CEP shall make its determination in accordance with WAC 197-10-260. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-260, filed 4/11/78; Order 259, § 332-40-260, filed 6/10/76; Order 257, § 332-40-260, filed 5/21/76.]

WAC 332-40-300 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 department 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 department are the same entity and decides that an EIS is required.

(3) When the threshold determination is omitted, no environmental checklist is required unless a private applicant requests pre-draft consultation pursuant to WAC 197-10-410 and 332-40-410. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-300, filed 4/11/78; Order 259, § 332-40-300, filed 6/10/76; Order 257, § 332-40-300, filed 5/21/76.]

WAC 332-40-310 Threshold determination procedures--Environmental checklist. (1) An environmental checklist substantially in the form provided by the department 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 provide

explanations of "no" answers. Persons filling out an environmental checklist may make reference to studies or reports which are available to the department. For department administered licenses, the applicant shall be required to complete the environmental checklist and the checklist attached to the application. For department initiated actions, the checklist will be completed by the area manager or the area manager's designee unless a division has retained the option of completing the environmental checklist at the division level.

(2) No environmental checklist or threshold determination is required for proposals that are exempted by WAC 332-40-170, 332-40-175 and 332-40-180. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-310, filed 4/11/78; Order 259, § 332-40-310, filed 6/10/76; Order 257, § 332-40-310, filed 5/21/76.]

WAC 332-40-315 Actions requiring a threshold determination. The following list of actions requires the completion of an Environmental Checklist by the designated entity for compliance with the threshold determination requirements of the SEPA Guidelines chapter 197-10 WAC.

(1) Geology and Earth Resources

Surface mining permits (by applicant).

Oil and gas drilling permits (by the applicant).

Geothermal drilling permits (by the applicant). Except when drilling a core hole for the purpose of gathering geothermal data.

(2) Forest Land Management

Class IV--Special forest practices on state lands (by the Area Manager).

(3) Timber Sales

Timber sales and forest product sales designated by the forest practices board as being class IV special forest practices (by the Area Manager).

Road rights of way across state land requiring new construction when not associated with a forest practice (by the Area Manager).

Utility rights of way for transmission but not distribution (by the Area Manager).

Exchanges (by the Area Manager).

(4) Lands

Land sales.

New grazing leases covering more than one section (by the Area Manager).

New share crop leases covering more than 160 acres (by the Area Manager).

New agricultural leases covering more than 160 acres (by the Area Manager).

New commercial leases (by the Area Manager).

New communication site leases (by the Area Manager).

New leases for private recreation sites when designed specifically for ATV's or containing more than 12 campsites (by the Area Manager).

(5) Marine Land Management

New general purpose leases (by the Division Supervisor).

New sewer outfall leases (by the Division Supervisor).

New mining contracts (by the Division Supervisor).
 New booming leases (by the Division Supervisor).
 New dredge spoil disposal sites (by the Division Supervisor).
 New oyster leases (by the Division Supervisor).
 New clam leases (by the Division Supervisor).
 New oil and gas leases (by the Division Supervisor).
 New harbor area leases (by the Division Supervisor).

(6) Recreation

Recreation sites constructed specifically for ATV's (by the Area Manager).
 All trail construction.
 Snowmobile site construction.

(7) Forest Practices

Class IV-Special forest practices on private land subject to department approval (by the applicant).

See WAC 197-10-230(4).

(8) Engineering

Capital projects (by the Area Manager initiating the project).

Road construction when not associated with a forest practice (by the Area Manager).

(9) Action by the Harbor Line Commission [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-315, filed 4/11/78; Order 259, § 332-40-315, filed 6/10/76; Order 257, § 332-40-315, filed 5/21/76.]

WAC 332-40-320 Threshold determination procedures--Initial review of environmental checklist. The department when it is 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 department shall independently evaluate each item on the checklist and indicate the results of this evaluation. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-320, filed 4/11/78; Order 259, § 332-40-320, filed 6/10/76; Order 257, § 332-40-320, filed 5/21/76.]

WAC 332-40-330 Threshold determination procedures--Information in addition to checklist. (1) The threshold determination by the department 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 department determines the information available to it is not reasonably sufficient to make this determination, one or more of the following may be initiated:

(a) For private projects, 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 department may initiate an environmental analysis, using department specialists to conduct physical investigations on the subject property to provide additional information.

(i) When an area manager or division supervisor determines that the available information concerning a proposed action is not adequate to make a threshold determination, an environmental analysis may be requested.

(ii) Environmental analysis is prepared by department staff environmental specialists. An analysis consists of an on site inspection for actions of a project nature and the preparation of a written report identifying possible adverse environmental impacts and the measures necessary for their mitigation or elimination.

(iii) The division supervisor or area manager must have approval, for the environmental analysis, from the deputy supervisor whose area of accountability covers the proposed action necessitating the environmental analysis.

(c) The department 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. Agencies so consulted shall respond in accordance with the requirements of WAC 332-40-500 through 332-40-540.

(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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-330, filed 4/11/78; Order 259, § 332-40-330, filed 6/10/76; Order 257, § 332-40-330, filed 5/21/76.]

WAC 332-40-340 Threshold determination procedures--Negative declarations. (1) In the event the department 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 332-40-355.

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

(3) A department 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 for which there is another agency with jurisdiction.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 332-40-170(1)(n) or 332-40-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 332-40-170, 332-40-175 or 332-40-180.

(4) The department shall issue all proposed declarations of nonsignificance by sending the proposed declaration and environmental checklist to other agencies with jurisdiction and to the SEPA public information center of the department.

(5) Any person or agency may submit written comments on the proposed declaration of nonsignificance to the department within fifteen days from the date of its issuance. The department 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 its issuance. If comments are received, the department shall reconsider its proposed declaration; however, the department 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 department 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 332-40-330(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 will list it on the "SEPA register" as specified in WAC 197-10-831. This subsection shall not apply to proposed declarations of nonsignificance, to final declarations of nonsignificance issued in accordance with WAC 197-10-340(2) or to final declarations of nonsignificance made under the "agreement with other agency" provision of WAC 197-10-340(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 332-40-345. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-340, filed 4/11/78; Order 259, § 332-40-340, filed 6/10/76; Order 257, § 332-40-340, filed 5/21/76.]

WAC 332-40-345 Assumption of lead agency status by the department when it is an agency with jurisdiction over a proposal--Prerequisites, effect and form of notice.

(1) When the department is an agency with jurisdiction over a proposal, upon review of a proposed declaration of nonsignificance, it 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 332-40-340.

(2) The affirmative threshold determination by the department 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 department 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 department 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 department.

(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 department of natural resources and in its opinion an EIS is required for the proposal. Consequently, notice is hereby given that the department 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) The department may still comment critically upon a proposed declaration of nonsignificance without assuming lead agency status. The department has not 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 the department. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-345, filed 4/11/78; Order 259, § 332-40-345, filed 6/10/76; Order 257, § 332-40-345, filed 5/21/76.]

WAC 332-40-350 Affirmative threshold determination. (1) In the event the department 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 332-40-355. This form shall be retained in the files of the department 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 332-10-370, the lead agency shall begin the EIS preparation procedures of WAC 197-10-400 through 332-40-695.

(2) If the additional information gathering mechanisms of WAC 332-40-330 have been utilized, and the department reasonably believes that the proposal could have a significant adverse impact, the affirmative threshold shall be made. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-350, filed 4/11/78; Order 259, § 332-40-350, filed 6/10/76; Order 257, § 332-40-350, filed 5/21/76.]

WAC 332-40-355 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 332-40-330, and maintained in the department's SEPA information center.

(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 department of natural resources of a completed environmental checklist and other information on file with the department.

Responsible Official -----

Position/Title -----

Date ----- Signature -----

(3) If the form is for a declaration of environmental significance, the department 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 department would withdraw its declaration and issue a (proposed/final) declaration of nonsignificance. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-355, filed 4/11/78; Order 259, § 332-40-355, filed 6/10/76; Order 257, § 332-40-355, filed 5/21/76.]

WAC 332-40-360 Threshold determination criteria--Application of environmental checklist. (1) The department shall apply the questions in the environmental checklist to the total proposal, including its indirect effects (See WAC 332-40-060), 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 department 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 department has utilized the additional information gathering mechanisms of WAC 332-40-330, the impacts of the proposal are still in doubt, and there exists a reasonable belief by the department 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 department or by the private applicant is required when the information available to the department is not sufficient for it to make a determination of the potential adverse environmental impacts (See WAC 332-40-330). It is expected, however, that many proposals can be evaluated entirely through an office review (See WAC 332-40-320) 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-360, filed 4/11/78; Order 259, § 332-40-360, filed 6/10/76; Order 257, § 332-40-360, filed 5/21/76.]

WAC 332-40-365 Environmental checklist. The department shall use an environmental checklist, form number RES 30-1802 (REV) (5-76). The questions appearing in the environmental checklist are exclusive, and considerations which do not appear in it or in WAC 332-40-360 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. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-365, filed 4/11/78; Order 259, § 332-40-365, filed 6/10/76; Order 257, § 332-40-365, filed 5/21/76.]

WAC 332-40-370 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 department, 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-370, filed 4/11/78; Order 259, § 332-40-370, filed 6/10/76; Order 257, § 332-40-370, filed 5/21/76.]

WAC 332-40-405 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 department 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 department any issue of potential environmental concern which

should be explored by the department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-405, filed 4/11/78; Order 259, § 332-40-405, filed 6/10/76; Order 257, § 332-40-405, filed 5/21/76.]

WAC 332-40-410 Predraft consultation procedures.

(1) Predraft consultation occurs when the department consults with 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 department 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 department.

(2) Predraft consultation is begun when the department 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 department.

(b) A copy of the environmental checklist required by WAC 332-40-310, as reviewed pursuant to WAC 332-40-320.

(c) Any information in addition to the checklist resulting from application of WAC 332-40-330.

(d) Any other information deemed relevant to the proposal by the department 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 department. The required contents of the consulted agency response are governed by WAC 332-40-500 through 332-40-540.

(4) The department 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 department 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 department. The information required by this subsection may be placed wherever in the draft EIS the department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-410, filed 4/11/78; Order 259, § 332-40-410, filed 6/10/76; Order 257, § 332-40-410, filed 5/21/76.]

WAC 332-40-420 Preparation of EIS by persons outside the department. (1) Preparation of the EIS is the responsibility of the department, 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 department. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with these guidelines and the guidelines of the department.

(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 department. The responsible official within the department 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. The use of consultants must have advance approval of the supervisor.

(3) If a person other than the department is preparing the EIS, the responsible official will coordinate any pre-draft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the department which relate to the subject matter of the EIS, pursuant to chapter 42.17 RCW (Public Disclosure and Public Records Law; Initiative 276, 1973).

(4) Unless funds are appropriated by the legislature specifically for EIS preparation, all EIS required for projects shall be prepared at the applicant's expense.

(5) The provisions of this section apply to both the draft and final EIS. [Statutory Authority: RCW 43-.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-420, filed 4/11/78; Order 259, § 332-40-420, filed 6/10/76; Order 257, § 332-40-420, filed 5/21/76.]

WAC 332-40-440 Contents of a draft EIS. (1) The following subsections set forth the required contents of a draft EIS: *Provided*, That where the department 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 332-40-460).

(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 332-40-444.

(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 332-40-444, 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 332-40-444(1).

(c) Direct and indirect impacts of the total proposal, as described in WAC 332-40-440(8)(a) 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. [Statutory Authority: RCW 43.21C-.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-440, filed 4/11/78; Order 259, § 332-40-440, filed 6/10/76; Order 257, § 332-40-440, filed 5/21/76.]

WAC 332-40-442 Special considerations regarding contents of an EIS on a nonproject action. (1) WAC 332-40-440 applies to the contents of a draft EIS for a nonproject action. The department, however, has greater flexibility in its approach to achieving compliance with the requirements of WAC 332-40-440 in writing an 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 department 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. For example, an objective of an agency's proposal should be stated as "the facilitation of the movement of people from point A to point B" rather than "the widening of an urban arterial in order to accommodate additional privately-owned passenger vehicles." [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-442, filed 4/11/78; Order 259, § 332-40-442, filed 6/10/76; Order 257, § 332-40-442, filed 5/21/76.]

WAC 332-40-444 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 department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-444, filed 4/11/78; Order 259, § 332-40-444, filed 6/10/76; Order 257, § 332-40-444, filed 5/21/76.]

WAC 332-40-450 Public awareness of availability of draft EIS. Upon publication of the draft EIS, the responsible official shall list the proposal in the department "EIS Available Register" maintained at the department's SEPA public information center. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-450, filed 4/11/78; Order 259, § 332-40-450, filed 6/10/76; Order 257, § 332-40-450, filed 5/21/76.]

WAC 332-40-455 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 department. 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 department. 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 department any comments upon or substantive information related to the proposal and the draft EIS. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-455, filed 4/11/78.]

WAC 332-40-460 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 332-40-040 and 332-40-465 (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 non-project 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, statewide 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) The department's SEPA public information center.

(h) Any person, organization or governmental agency that has expressed an interest in the proposal, is known by the department 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 332-40-040, 332-40-465, 332-40-510 and 332-40-520 for those provisions that define a consulted agency.) [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-460, filed 4/11/78; Order 259, § 332-40-460, filed 6/10/76; Order 257, § 332-40-460, filed 5/21/76.]

WAC 332-40-465 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) Thermal power plant 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 highways.
- (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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-465, filed 4/11/78; Order 259, § 332-40-465, filed 6/10/76; Order 257, § 332-40-465, filed 5/21/76.]

WAC 332-40-470 Cost to the public for reproduction of environmental documents. The department shall provide a copy of any environmental document, in accordance with chapter 42.17 RCW, charging only those costs allowed therein and 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-470,

filed 4/11/78; Order 259, § 332-40-470, filed 6/10/76; Order 257, § 332-40-470, filed 5/21/76.]

WAC 332-40-480 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 department determines, in its sole discretion, that a public hearing would assist the department 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 department, or who would be adversely affected by the environmental impact of the proposal, make written request to the department 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 department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-480, filed 4/11/78; Order 259, § 332-40-480, filed 6/10/76; Order 257, § 332-40-480, filed 5/21/76.]

WAC 332-40-500 Department responsibilities when consulted as an agency with jurisdiction. The department, 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 department 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 the department 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 department. The department, 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-500, filed 4/11/78; Order 259, § 332-40-500, filed 6/10/76; Order 257, § 332-40-500, filed 5/21/76.]

WAC 332-40-535 Cost of performance of consulted agency responsibilities. The department shall not charge the lead agency for any costs incurred in complying with WAC 332-40-500 through 332-40-540, 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 the department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-535, filed 4/11/78; Order 259, § 332-40-535, filed 6/10/76; Order 257, § 332-40-535, filed 5/21/76.]

WAC 332-40-540 Limitations on responses to consultation. If part or all of the relevant data possessed by the department is voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or consists of a report or document published by another agency, or represents a standard text or other work obtainable at a public library, such data or information may be clearly identified or cited by the department in its comments to the lead agency and the data itself need not be transmitted. When the department 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 department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-540, filed 4/11/78; Order 259, § 332-40-540, filed 6/10/76; Order 257, § 332-40-540, filed 5/21/76.]

WAC 332-40-545 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 draft EIS or within a fifteen-day extension period granted by the lead agency, the department 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 department in response to a draft EIS is thereafter barred from alleging any defects in the department's compliance with WAC 332-40-400 through 332-40-495, or with the contents of the final EIS. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-545, filed 4/11/78; Order 259, § 332-40-545, filed 6/10/76; Order 257, § 332-40-545, filed 5/21/76.]

WAC 332-40-570 Preparation of the final EIS--Contents--When no critical comments received on the draft EIS. (1) If the department does not receive any comments critical of the scope or content of the draft EIS, the department may prepare a statement to that effect and circulate that statement in the manner prescribed in WAC 332-40-600.

(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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-570, filed 4/11/78; Order 259, § 332-40-570, filed 6/10/76; Order 257, § 332-40-570, filed 5/21/76.]

WAC 332-40-580 Preparation of the final EIS--Contents--When critical comments received on the draft EIS. (1) When the department 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 department 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 department 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 department shall then circulate the document in the manner prescribed in WAC 332-40-600: *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 department 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 department shall circulate the rewritten EIS in the manner specified in WAC 332-40-600. The department shall ensure that the rewritten EIS evidences an affirmative response by the department 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-580, filed 4/11/78; Order 259, § 332-40-580, filed 6/10/76; Order 257, § 332-40-580, filed 5/21/76.]

WAC 332-40-600 Circulation of the final EIS. The final EIS shall be issued by circulating to the department of ecology, office of the governor or the governor's designee, the ecological commission, the department's SEPA public information center, 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-600, filed 4/11/78; Order 259, § 332-40-600, filed 6/10/76; Order 257, § 332-40-600, filed 5/21/76.]

WAC 332-40-650 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. § 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 332-40-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the department determines that the federal EIS is adequate, it shall be listed in the "EIS Available Register" in the SEPA public information center. A notice to this effect shall be circulated as in WAC 332-40-600.

(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 (3) above, at least fifty persons who reside within the jurisdiction of the department, or are adversely affected by the environmental impact of the proposal, make written request. The department shall reconsider its determination of adequacy in view of comments received at any such public hearing. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-650, filed 4/11/78; Order 259, § 332-40-650, filed 6/10/76; Order 257, § 332-40-650, filed 5/21/76.]

WAC 332-40-660 Use of previously prepared EIS for a different proposed action. (1) The department 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 department shall prepare a draft supplemental EIS and comply with the provisions of WAC 332-40-400 through 332-40-695. 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 department may prepare a written statement setting forth its determination under this subsection and list the proposal in the "EIS Available Register". The department 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 332-40-480 through 332-40-490, relating to a public hearing on the environmental impact of a proposal shall apply. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-660, filed 4/11/78; Order 259, § 332-40-660, filed 6/10/76; Order 257, § 332-40-660, filed 5/21/76.]

WAC 332-40-690 Use of another lead agency's EIS by the department for the same proposal. (1) When the department is considering an action which is part of a proposal covered by a final EIS of a another lead agency, and the department was consulted as an agency with jurisdiction during the consultation process on the previous EIS because of the action it is now considering, the department must utilize the previous EIS unchanged when it is considering its present action except under the conditions of subsection (2).

(2) The department 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 department 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 the department is not listed as a licensing agency in the draft EIS pursuant to WAC 332-40-440(2)(d) and did not receive a copy of the draft EIS, the department shall not be limited by the contents of

the earlier EIS in preparing its statement. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-690, filed 4/11/78; Order 259, § 332-40-690, filed 6/10/76; Order 257, § 332-40-690, filed 5/21/76.]

WAC 332-40-695 Draft and final supplements to a revised EIS. (1) In any case where the department 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 332-40-450 through 332-40-470. 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 department shall comply with WAC 332-40-550 through 332-40-580 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-695, filed 4/11/78; Order 259, § 332-40-695, filed 6/10/76; Order 257, § 332-40-695, filed 5/21/76.]

WAC 332-40-710 No action for seven days after publication of the final EIS. No agency shall take any major action (as defined in WAC 332-40-040(31)) 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, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-710, filed 4/11/78.]

WAC 332-40-800 Amendments to this chapter. In the event that CEP or its successor agency adopts amendments to this chapter, the department shall adopt amendments to these guidelines within one hundred twenty days to bring these guidelines into conformance with SEPA guidelines as amended. [Statutory Authority: RCW 43.21C.120, WAC 197-10-800 & 197-10-810. 78-05-015 (Order 292), § 332-40-800, filed 4/11/78; Order 259, § 332-40-800, filed 6/10/76; Order 257, § 332-40-800, filed 5/21/76.]

WAC 332-40-835 Repealed. See Disposition Table at beginning of this chapter.

Chapter 332-52 WAC

MANAGED LANDS AND ROADS--USE OF

WAC

332-52-010
332-52-055

Definitions.
Capital Forest—Organized events—Prohibited without prior written approval.

WAC 332-52-010 Definitions. The following definitions shall apply to all of the listed regulations:

(1) The term "developed recreation sites" means all improved observation, swimming, boating, camping and picnic sites.

(2) The term "camping equipment" includes tent or vehicle used to accommodate the camper, the vehicles used for transport, and the associated camping paraphernalia.

(3) The term "department" shall mean the Department of Natural Resources.

(4) The term "vehicle" shall mean any motorized device capable of being moved upon a road and in, upon, or by which any persons or property is or may be transported or drawn upon a road. It shall include, but not be limited to automobiles, trucks, motorcycles, motor bikes, motor-scooters and snowmobiles, whether or not they can legally be operated on the public highways.

(5) The term "organized event" shall mean any event involving more than fifty participants which is advertised in advance, sponsored by any recognized club(s), and conducted at a predetermined time and place. [Statutory Authority: RCW 46.09.180 and chapter 77.68 RCW. 79-06-039 (Order 313), § 332-52-010, filed 5/18/79; Order 29, § 332-52-010, filed 4/17/70, effective 5/20/70.]

WAC 332-52-055 Capital Forest--Organized events--Prohibited without prior written approval. (1) Organized events are prohibited in the Capital Forest without the prior written approval of the department. Any group or organization desiring to utilize department lands or recreational facilities within the Capital Forest for an organized event shall make written request at least thirty days in advance of such event to the department's central area office in Chehalis on a form designated by the department for this purpose.

(2) All requests for an organized event in the Capital Forest shall include the following information:

- (a) The name of the group;
- (b) The name, address, and telephone number of the designated group representative;
- (c) A general description of the organized event;
- (d) The location and description of the land and facilities to be used;
- (e) The date and time of the organized event;
- (f) A legible map clearly delineating the facility and routes to be used and the direction of travel;
- (g) The kind of markers, if any, to be used.

(3) The department's central area office shall make a determination regarding the organized event within ten calendar days of receiving a written request by approving, disapproving or conditionally approving the same. The department's determination will be based upon the nature of the proposed use, seasonal factors and other environmental conditions, other known uses of affected areas, and other requests for organized events in the affected vicinity. The department's determination on the request shall be in writing and will explain the basis for any disapproval or conditional approval.

(4) The sponsoring group, in carrying out any organized event, shall, unless specifically waived in writing by the department:

- (a) Limit participants to the maximum number specified by the department;

(b) Identify all route markers with the sponsor's name and the date of the use;

(c) Post and maintain signs clearly warning participants and others of any hazardous conditions and all road and trail intersections throughout the entire route;

(d) Post signs to warn nonparticipants of the organized event and the flow of traffic;

(e) Remove all route markers and posted signs within forty-eight hours after completion of the organized event. [Statutory Authority: RCW 46.09.180 and chapter 77.68 RCW. 79-06-039 (Order 313), § 332-52-055, filed 5/18/79.]

Chapter 332-100 WAC LEASES, SALES, RIGHTS OF WAY, ETC.

WAC

- 332-100-010 Repealed.
- 332-100-040 Deduction determination.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 332-100-010 Percentage of proceeds to management account. [Resolution 16, filed 4/5/61.] Repealed by 78-10-039 (Order 308, Resolution 241), filed 9/18/78. Statutory Authority: RCW 79.64.040.

WAC 332-100-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 332-100-040 Deduction determination. (1) The board of natural resources hereby determines that a deduction from the gross proceeds of all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department of natural resources and affecting public lands as provided for in subsection (2) hereof is necessary in order to achieve the purposes of chapter 79.64 RCW.

(2) The department of natural resources shall deduct the maximum percentages as provided for in RCW 79.64.040 except that deductions from the gross proceeds of harbor area leases shall be at twenty percent. Except for transactions involving aquatic lands, harbor areas and trust land categories that have a deficit revenue/expenditure status, the deductions may be temporarily discontinued by a resolution of the board of natural resources at such times as the balance in the resource management cost account exceeds an amount equal to twelve months operating expenses for the department of natural resources. The duration of such orders shall be for a specified time period calculated to allow a reduction of the resource management cost account balance to an amount approximately equal to eight months operating expenses for the department. Operating expense needs will be determined by the board based on pro-rata increments of biennial legislative appropriations. All sums so deducted shall be paid into the resource management cost account in the state general fund created by chapter 79.64 RCW. [Statutory Authority: RCW 79.64.040. 78-10-039 (Order 308, Resolution 241), § 332-100-040, filed 9/18/78.]