

# Title 197 WAC

## ENVIRONMENTAL POLICY, COUNCIL ON

### Chapters

- 197-06** Public records.  
**197-10** Guidelines interpreting and implementing the State Environmental Policy Act.

### Chapter 197-06 WAC PUBLIC RECORDS

#### WAC

- 197-06-010 Purpose.  
197-06-020 Definitions.  
197-06-030 Public records available.  
197-06-040 Membership, officers, quorum, administrative offices, function.  
197-06-050 Meetings.  
197-06-060 Public records officer.  
197-06-070 Office hours.  
197-06-080 Requests for public records.  
197-06-090 Copying.  
197-06-100 Exemptions.  
197-06-110 Review of denials of public records requests.  
197-06-120 Protection of public records.  
197-06-130 Records index.  
197-06-140 Communications.  
197-06-150 Adoption of form.  
197-06-990 Form—Council on environmental policy—Request for public records.

**WAC 197-06-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the council on environmental policy with the provisions of chapter 1, Laws of 1973 (Initiative 276 – Disclosure—Campaign finances—Lobbying—Records); and in particular with sections 25 – 32 of that act, dealing with public records; and to set regular meetings. [Order 74-1, § 197-06-010, filed 8/29/74.]

**WAC 197-06-020 Definitions.** (1) "Public record" includes any writing containing information relating to the conduct or the performance of any governmental function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

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

(3) The council on environmental policy is the council established pursuant to section 4, chapter 179, Laws of 1974 ex. sess. The council on environmental policy shall

hereinafter be referred to as the council. Where appropriate, the term council also refers to the staff and employees of the council. [Order 74-1, § 197-06-020, filed 8/29/74.]

**WAC 197-06-030 Public records available.** All public records of the commission, as defined in WAC 197-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973, and these rules. [Order 74-1, § 197-06-030, filed 8/29/74.]

**WAC 197-06-040 Membership, officers, quorum, administrative offices, function.** (1) **Members.** The council shall be composed of the members of the pollution control hearings board.

(2) **Officers, quorum.** The council shall annually elect from among its members a chairman. Two members shall constitute a quorum, and no action shall be taken by less than a majority of the council.

(3) **Administrative offices.** The administrative offices of the council and its staff shall be located at No. 5 South Sound Center, Lacey, Washington 98504. The council has no established field organization and all available records relating to council functions shall be at the foregoing address.

(4) **Function.** It shall be the duty and function of the council:

(a) To adopt initially and amend thereafter rules of interpretation and implementation of the State Environmental Policy Act of 1971, (chapter 43.21C RCW), subject to the requirements of chapter 34.04 RCW, for the purpose of providing guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. Such rule-making powers shall include, but shall not be limited to, the following phases of interpretation and implementation of the State Environmental Policy Act of 1971 (chapter 43.21C RCW):

(i) Categories of governmental actions which normally are to be considered as potential major actions significantly affecting the quality of the environment as well as categories of actions exempt from such classification, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW.

(ii) Criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(iii) Procedures applicable to the preparation of detailed statements, including but not limited to obtaining

comments, data and other information, and providing for and determining areas of public participation.

(iv) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable.

(v) Procedures for public notification of actions taken and documents prepared.

(vi) Definition of terms relevant to the implementation of chapter 43.21C RCW.

(vii) Guidelines for determining the obligations and powers under chapter 43.21C RCW of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(viii) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030 (2)(c).

(ix) To prepare guidelines for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of chapter 43.21C RCW.

(x) Guidelines for utilization of a detailed statement for more than one action.

(xi) Guidelines relating to actions which shall be exempt from the provisions of chapter 43.21C RCW in situations of emergency.

(b) In exercising such powers, functions, and duties, the council may:

(i) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments and other groups, as it deems advisable; and

(ii) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(c) Rules adopted pursuant to this section shall be subject to the review procedures of RCW 34.04.070 and 34.04.080.

(d) The council shall be abolished and shall cease to exist at midnight, June 30, 1976. The guidelines established by the council prior to midnight, June 30, 1976, shall continue to be valid and of force and effect, except as they are thereafter amended by further guidelines promulgated by the department of ecology, in accord with chapter 34.04 RCW.

Upon the abolishment of the council on June 30, 1976, all powers, duties and functions of the council are transferred to the department of ecology. [Order 74-1, § 197-06-040, filed 8/29/74.]

**WAC 197-06-050 Meetings.** (1) **Regular meetings.** Pursuant to section 7, chapter 250, Laws of 1971 1st ex. sess., and RCW 42.30.070, regular meetings of the council shall be held on the third Friday of each calendar month at 10:00 a.m. and on the fourth Wednesday of each calendar month at 1:30 p.m. Said meetings shall be held at the council's administrative offices at No. 5 South Sound Center, Lacey, Washington 98504 or at such other location as the council shall designate, which

specific location for any particular meeting may be obtained by contacting the council's administrative offices.

(2) **Special meetings.** A special meeting may be called at any time by the chairman or by a majority of the members. Said meeting shall be called by delivering personally or by mail written notice to each member of the council; and to each local newspaper of general circulation and to each local radio or television station which has on file with the council a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the council. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the council a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. [Order 74-1, § 197-06-050, filed 8/29/74.]

**WAC 197-06-060 Public records officer.** The council's public records shall be in charge of the public records officer designated by the council. The person so designated shall be located in the administrative offices of the council. The public records officer shall be responsible for the following: The implementation of the council's rules and regulations regarding release of public records, coordinating the staff of the council in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973. [Order 74-1, § 197-06-060, filed 8/29/74.]

**WAC 197-06-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the council. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. [Order 74-1, § 197-06-070, filed 8/29/74.]

**WAC 197-06-080 Requests for public records.** In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures: (1) A request shall be made in

writing upon a form prescribed by the council which shall be available at its administrative offices. The form shall be presented to the public records officer; or to any member of the council's staff, if the public records officer is not available, at the administrative offices of the council during customary office hours. The request shall include the following information:

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

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested. [Order 74-1, § 197-06-080, filed 8/29/74.]

**WAC 197-06-090 Copying.** No fee shall be charged for the inspection of public records. The council shall charge a fee of ten cents per page of copy for providing copies of public records and for use of the council's copy equipment. This charge is the amount necessary to reimburse the council for its actual costs incident to such copying. [Order 74-1, § 197-06-090, filed 8/29/74.]

**WAC 197-06-100 Exemptions.** (1) The council reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 197-06-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

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

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [Order 74-1, § 197-06-100, filed 8/29/74.]

**WAC 197-06-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or

other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chairman of the council. The chairman shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the council as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the council has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) With regard to review of denial of requests hereunder, the provisions of WAC 197-06-040(2) regarding quorum shall be inapplicable. [Order 74-1, § 197-06-110, filed 8/29/74.]

**WAC 197-06-120 Protection of public records.** The public records officer shall, to the extent practical, insure that records requested are not removed from the premises nor portions thereof removed by members of the public. [Order 74-1, § 197-06-120, filed 8/29/74.]

**WAC 197-06-130 Records index.** (1) The council has available to all persons a current index which provides identifying information as to those of the following records applicable to the council and issued, adopted or promulgated since June 30, 1972:

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

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

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

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

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

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

(2) The current index promulgated by the council shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order 74-1, § 197-06-130, filed 8/29/74.]

WAC 197-06-140 Communications. All communications with the council including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973, and these rules; requests for copies of the council's decisions and other matters, shall be addressed as follows: c/o Public Records Officer, Council on Environmental Policy, No. 5 South Sound Center, Lacey, Washington 98504. [Order 74-1, § 197-06-140, filed 8/29/74.]

WAC 197-06-150 Adoption of form. The council hereby adopts use by all persons requesting inspection and/or copies of records the form set out below, entitled "Request for public records." [Order 74-1, § 197-06-150, filed 8/29/74.]

WAC 197-06-990 Form--Council on environmental policy--Request for public records. We have received your request for copies of our public records. Please complete the form on the right and return it with the amount required. We will forward the requested copies to you as soon as we receive this form.

Thank you.

Return to:

Public Records Officer
Council on Environmental Policy
No. 5 South Sound Center
Lacey, Washington 98504

COUNCIL ON ENVIRONMENTAL POLICY
REQUEST FOR PUBLIC RECORDS

Date ----- Time -----

Name -----

Address -----

Description of Records (see index):

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I certify that the information obtained through this request for public records will not be used for commercial purposes.

Signature

Number of copies -----

Number of pages -----

Per page charge \$-----

Total charge \$-----

[Order 74-1, Form (codified as WAC 197-06-990), filed 8/29/74.]

Chapter 197-10 WAC
GUIDELINES INTERPRETING AND
IMPLEMENTING THE STATE ENVIRONMENTAL
POLICY ACT

WAC
197-10-010 Authority.
197-10-020 Purpose.
197-10-025 Scope and coverage of this chapter.
197-10-030 Integration of SEPA procedures with other governmental operations.
197-10-040 Definitions.
197-10-050 Use of the environmental checklist form.
197-10-055 Timing of the EIS process.
197-10-060 Scope of a proposal and its impacts for the purposes of lead agency determination, threshold determination, and EIS preparation.
197-10-100 Summary of information which may be required of a private applicant.
197-10-150 Exemptions exclusive--CEP approval of changes in exemptions.
197-10-160 No presumption of significance for nonexempt actions.
197-10-170 Categorical exemptions.
197-10-175 Exemptions and nonexemptions applicable to specific state agencies.
197-10-177 Environmentally sensitive areas.
197-10-180 Exemption for emergency actions.
197-10-190 Use and effect of categorical exemptions.
197-10-200 Lead agency--Responsibilities.
197-10-203 Determination of lead agency--Procedures.
197-10-205 Lead agency designation--Governmental proposals.
197-10-210 Lead agency designation--Proposals involving both private and public construction activity.
197-10-215 Lead agency designation--Private projects for which there is only one agency with jurisdiction.
197-10-220 Lead agency designation--Private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-10-225 Lead agency designation--Private projects requiring licenses from more than one state agency.
197-10-230 Lead agency designation--Specific proposals.
197-10-235 Local agency transfer of lead agency status to a state agency.
197-10-240 Agreements as to lead agency status.
197-10-245 Agreements between agencies as to division of lead agency duties.
197-10-260 Dispute as to lead agency determination--Resolution by CEP.
197-10-270 Assumption of lead agency status by another agency with jurisdiction.
197-10-300 Threshold determination requirement.
197-10-305 Recommended timing for threshold determination.
197-10-310 Threshold determination procedures--Environmental checklist.
197-10-320 Threshold determination procedures--Initial review of environmental checklist.
197-10-330 Threshold determination procedures--Information in addition to checklist.
197-10-340 Threshold determination procedures--Negative declarations.
197-10-345 Assumption of lead agency status by another agency with jurisdiction over a proposal--Prerequisites, effect and form of notice.
197-10-350 Affirmative threshold determination.
197-10-355 Form of declaration of significance/nonsignificance.
197-10-360 Threshold determination criteria--Application of environmental checklist.
197-10-365 Environmental checklist.
197-10-370 Withdrawal of affirmative threshold determination.
197-10-375 Withdrawal of negative threshold determination.
197-10-380 Intraagency appeals of threshold determinations.
197-10-390 Effect of threshold determination by lead agency.
197-10-400 Duty to begin preparation of a draft EIS.
197-10-405 Purpose and function of a draft EIS.

197-10-410	Predraft consultation procedures.
197-10-420	Preparation of EIS by persons outside the lead agency.
197-10-425	Organization and style of a draft EIS.
197-10-440	Contents of a draft EIS.
197-10-442	Special considerations regarding contents of an EIS on a nonproject action.
197-10-444	List of elements of the environment.
197-10-446	Draft EIS—Optional additional elements—Limitation.
197-10-450	Public awareness of availability of draft EIS.
197-10-455	Circulation of the draft EIS—Review period.
197-10-460	Specific agencies to which draft EIS shall be sent.
197-10-465	Agencies possessing environmental expertise.
197-10-470	Cost to the public for reproduction of environmental documents.
197-10-480	Public hearing on a proposal—When required.
197-10-485	Notice of public hearing on environmental impact of the proposal.
197-10-490	Public hearing on the proposal—Use of environmental documents.
197-10-495	Preparation of amended or new draft EIS.
197-10-500	Responsibilities of consulted agencies—Local agencies.
197-10-510	Responsibilities of consulted agencies—State agencies with jurisdiction.
197-10-520	Responsibilities of consulted agencies—State agencies with environmental expertise.
197-10-530	Responsibilities of consulted agencies—When predraft consultation has occurred.
197-10-535	Cost of performance of consulted agency responsibilities.
197-10-540	Limitations on responses to consultation.
197-10-545	Effect of no written comment.
197-10-550	Preparation of the final EIS—Time period allowed.
197-10-570	Preparation of the final EIS—Contents—When no critical comments received on the draft EIS.
197-10-580	Preparation of the final EIS—Contents—When critical comments received on the draft EIS.
197-10-600	Circulation of the final EIS.
197-10-650	Effect of an adequate final EIS prepared pursuant to NEPA.
197-10-652	Supplementation by a lead agency of an inadequate final NEPA EIS.
197-10-660	Use of previously prepared EIS for a different proposed action.
197-10-690	Use of lead agency's EIS by other acting agencies for the same proposal.
197-10-695	Draft and final supplements to a revised EIS.
197-10-700	No action for seven days after publication of the final EIS.
197-10-710	EIS combined with existing planning and review processes.
197-10-800	Responsibilities of agencies to adopt guidelines.
197-10-805	Agency guidelines consistent with this chapter.
197-10-810	Responsibility of agencies—Amendments to this chapter.
197-10-820	Responsibility of agencies—Designation of responsible official.
197-10-825	Responsibility of agencies—Procedures when consulted agency.
197-10-831	Responsibility of agencies—SEPA public information.
197-10-840	Application of agency guidelines to ongoing actions.
197-10-860	Fees to cover the costs of SEPA compliance.
197-10-900	Applicability of this chapter.
197-10-910	Severability.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

197-10-830	Responsibility of agencies—SEPA public information center. [Order 75-1, § 197-10-830, filed 12/17/75.] Repealed by Order DE 77-24, filed 12/22/77.
197-10-835	Regional SEPA public information centers. [Order 75-1, § 197-10-835, filed 12/17/75.] Repealed by Order DE 77-24, filed 12/22/77.

**WAC 197-10-010 Authority.** This chapter is promulgated pursuant to the authority granted in RCW 43.21C.110. [Order 75-1, § 197-10-010, filed 12/17/75.]

**WAC 197-10-020 Purpose.** (1) The purpose of this chapter is to establish statewide guidelines interpreting and implementing the State Environmental Policy Act of 1971 (SEPA). Each state and local agency of government must adopt its own rules, ordinances or resolutions consistent with this chapter governing the implementation of SEPA.

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

(3) These guidelines do not govern compliance by state or local agencies with the National Environmental Policy Act of 1969 (NEPA). When state or local agencies are required by federal law or regulations to perform some element of compliance with NEPA, such agency compliance will be governed by the applicable federal statute and regulations and not by these guidelines. [Order DE 77-24, § 197-10-020, filed 12/22/77; Order 75-1, § 197-10-020, filed 12/17/75.]

**WAC 197-10-025 Scope and coverage of this chapter.** (1) Compliance with the guidelines of this chapter, and agency guidelines consistent therewith, shall constitute complete procedural compliance with SEPA for any "action" as defined in WAC 197-10-040(2).

(2) The guidelines of this chapter do not cover the substantive effect that the enactment of SEPA has upon agency decision-making.

(3) The guidelines of this chapter do not cover the notice/statute of limitations provisions of RCW 43.21C-.080, 43.21C.085 and 43.21C.087. Persons and agencies wishing to utilize these provisions shall follow the statutory language. [Order DE 77-24, § 197-10-025, filed 12/22/77; Order 75-1, § 197-10-025, filed 12/17/75.]

**WAC 197-10-030 Integration of SEPA procedures with other governmental operations.** To the fullest extent possible, the procedures required by these guidelines shall be integrated with existing planning and licensing procedures utilized by governmental agencies in the state. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort. [Order 75-1, § 197-10-030, filed 12/17/75.]

**WAC 197-10-040 Definitions.** The following words and terms have the following meanings for the purposes of this chapter, unless the context indicates otherwise:

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

(2) Action means an activity potentially subject to the environmental impact statement requirements of RCW 43.21C.030 (2)(c) and (2)(d). (See WAC 197-10-170, 197-10-175 and 197-10-180 for activities that are exempted from the threshold determination and environmental impact statement requirements of SEPA and these guidelines.) All actions fall within one of the following subcategories:

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

(b) Governmental action of a project nature. This includes and is limited to:

(i) The decision by an agency to undertake any activity which will directly modify the physical environment, whether such activity will be undertaken directly by the agency or through contract with another, and

(ii) The decision to purchase, sell, lease, transfer or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

(c) Governmental action of a nonproject nature. This includes and is limited to:

(i) The adoption or amendment of legislation, ordinances, rules or regulations which contain standards controlling use or modification of the physical environment;

(ii) The adoption or amendment of comprehensive land use plans 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 197-10-465, unless it is also an agency with jurisdiction.

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

(5) Agency or agencies means all state agencies and local agencies as defined in this section. The term does

not include any agency or division of the federal government. Whenever a specific agency has been named in these guidelines and the functions of that agency have been transferred to another agency, then the term shall mean the successor agency.

(6) 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.

(7) 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.

(8) 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.

(9) 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 197-10-355 shall be used for this declaration.

(10) 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 197-10-355 shall be used for this declaration.

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

(12) 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.

(13) Environment means, and is limited to, those areas listed in WAC 197-10-444.

(14) Environmental checklist means the form contained in WAC 197-10-365.

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

(16) Environmentally sensitive area means an area designated and mapped by a county/city pursuant to WAC 197-10-177. Certain categorical exemptions do not apply within environmentally sensitive areas.

(17) 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 197-10-570, 197-10-580 or 197-10-695.

(18) 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.

(19) Lead agency means the agency designated by WAC 197-10-200 through 197-10-270 or 197-10-345. The lead agency is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(20) 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.

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

(22) List of elements of the environment means the list in WAC 197-10-444 which must be attached to every environmental impact statement.

(23) 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.

(24) Major action means any "action" as defined in this section which is not exempted by WAC 197-10-170, 197-10-175 and 197-10-180.

(25) 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.

(26) Physical environment means, and is limited to, those elements of the environment listed under "physical environment" in WAC 197-10-444(2).

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

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

(29) 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 197-10-060.

(30) 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 197-10-820].

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

(32) 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.

(33) Threshold determination means the decision by a lead agency whether or not an environmental impact statement is required for a proposal. [Order DE 77-24, § 197-10-040, filed 12/22/77; Order 75-1, § 197-10-040, filed 12/17/75.]

**WAC 197-10-050 Use of the environmental checklist form.** A form is provided in WAC 197-10-365 for an environmental checklist to be initially completed by an action proponent, whether public or private. This may be done either alone or together with the lead agency, but is usually done in conjunction with a license application. This form must be used in the threshold determination; it will also be helpful in making the lead agency designation and in predraft consultation. However, where there is an agreement between the proponent and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. [Order DE 77-24, § 197-10-050, filed 12/22/77; Order 75-1, § 197-10-050, filed 12/17/75.]

**WAC 197-10-055 Timing of the EIS process.** (1) The primary purpose of the EIS process is to provide environmental information to governmental decision-makers to be considered prior to making their decision. The process should thus be completed before the decisions of 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. All agencies shall identify the times at which the EIS process must be completed either in their guidelines or on a case by case basis. The lead agency should require completion of the threshold determination and EIS, if required, at the earliest point in the planning and decision-making process when the principal features of a proposal and its impacts upon the environment can be reliably identified.

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

(3) The maximum time limits contained in these guidelines for the threshold determination and EIS process do not apply to a proposal for a governmental action when the proponent of the action is also the lead agency. [Order DE 77-24, § 197-10-055, filed 12/22/77; Order 75-1, § 197-10-055, filed 12/17/75.]

**WAC 197-10-060 Scope of a proposal and its impacts for the purposes of lead agency determination, threshold determination, and EIS preparation.** (1) The proposal considered by an acting agency during the lead

agency determination procedure, and by the lead agency during the threshold determination and EIS preparation, shall be the total proposal including its direct and indirect impacts. Whenever the word "proposal" or the term "proposed action" is used in this chapter, the discussion in subsection (2) of this section applies. In considering the environmental impacts of a proposal during the threshold determination and EIS preparation, the discussion in subsection (3) of this section applies.

(2) The total proposal is the proposed action, together with all proposed activity functionally related to it. Future activities are functionally related to the present proposal if:

(a) The future activity is an expansion of the present proposal, facilitates or is necessary to operation of the present proposal; or

(b) The present proposal facilitates or is a necessary prerequisite to future activities.

The scope of the proposal is not limited by the jurisdiction of the lead agency. The fact that future parts of a proposal will require future governmental approvals shall not be a bar to their present consideration, so long as the plans for those future parts are specific enough to allow some evaluation of their potential environmental impacts. Acting agencies and lead agencies should be alert to the possibility that a proposal may involve other agencies with jurisdiction which may not be taking any action until sometime in the future. (For example, in a proposal for a plat approval, another agency with jurisdiction may be the appropriate sewer district, even though the sewers may not be installed until several years later.)

(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. (For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects.) Contemporaneous or subsequent development of a similar nature, however, need not be considered in the threshold determination unless there will be some causal connection between this development and one or more of the governmental decisions necessary for the proposal in question.

(4) The lead agency may divide proposals involving extensive future actions into segments, with an EIS prepared for each segment. In such event, the earlier EIS shall describe the later segments of the proposal and note that future environmental analysis will be required for 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 lead agency may at its option treat the present proposal as the total proposal, or select only some of the future elements for present consideration in the threshold determination and EIS. These categorizations shall be logical with relation to the design of the total system or network, and shall not be made merely to divide a larger system into exempted fragments. [Order DE 77-24, § 197-10-060, filed 12/22/77; Order 75-1, § 197-10-060, filed 12/17/75.]

**WAC 197-10-100 Summary of information which may be required of a private applicant.** (1) There are three areas of these guidelines where an agency is allowed to require information from a private applicant. These are:

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

Further information may be required if the responsible official determines that the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) Environmental checklist. A private applicant is required to complete an environmental checklist as set forth in WAC 197-10-365 either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. Agencies may not require a complete assessment or "mini-EIS" at this stage. (See WAC 197-10-310.)

(3) Threshold determination. The lead agency shall make an initial review of a completed checklist without requiring more information from a private applicant. After completing this initial review, the lead agency may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the lead agency, information accessible to the lead agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. (See WAC 197-10-330.)

(4) Draft and final EIS preparation. If the guidelines of the lead agency so provide, an EIS may be prepared by the applicant under the direction of the responsible official. (See WAC 197-10-420.) Alternatively, the responsible official may require a private applicant to provide data and information which is not in the possession of the lead agency relevant to any or all areas to be covered by an EIS. A private applicant shall not be required to provide information which is the subject of a pre-draft 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. [Order DE 77-24, § 197-10-100, filed 12/22/77; Order 75-1, § 197-10-100, filed 12/17/75.]



**WAC 197-10-150 Exemptions exclusive—CEP approval of changes in exemptions.** (1) The only actions exempt from the threshold determination requirements of this chapter are those which are categorically exempted in WAC 197-10-170, 197-10-175 and 197-10-180. Except to specify emergencies as allowed in WAC 197-10-180, agencies shall create additional exemptions in their guidelines only after obtaining approval of CEP in accordance with either subsection (2) or (3) of this section.

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

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

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

(5) This section shall not be construed to limit the right of any interested person to petition CEP for the promulgation, amendment or repeal of any rule, including rules establishing categorical exemptions, in accordance with RCW 34.04.060. [Order DE 77-24, § 197-10-150, filed 12/22/77; Order 75-1, § 197-10-150, filed 12/17/75.]

**WAC 197-10-160 No presumption of significance for nonexempt actions.** No presumption as to the significance of the impacts upon the environment shall be given to any proposed action merely because it was not exempted. [Order 75-1, § 197-10-160, filed 12/17/75.]

**WAC 197-10-170 Categorical exemptions.** Governmental activities or approvals of activities of the types listed herein are not major actions, and proposals for such activities are exempted from the threshold determination and EIS requirements of SEPA and these guidelines:

(1) Minor new construction. The following types of construction shall be exempt except when undertaken wholly or in part on lands covered by water; the exemptions provided by this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or water is required:

(a) The construction or location of any residential structure of four dwelling units or less.

(b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than 10,000 square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feedlots.

(c) The construction of an office, school, commercial, recreational, service or storage building with less than 4,000 square feet of total floor area, and with associated parking facilities designed for twenty automobiles or less.

(d) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(e) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(f) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard-rail and barricade installation, installation of catch basins and culverts, and reconstruction of existing road bed (existing curb to curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(g) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(h) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(i) The construction of a parking lot designed for twenty automobiles or less.

(j) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, III and IV forest practice under chapter 76.09.050 RCW 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 expansion 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 departments 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 in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(5) Business and other regulatory licenses. The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the 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 license 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.

(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 197-10-170 and 197-10-180.

(21) Nonactions. Proposals for activities which are not "actions" as defined in WAC 197-10-040(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. [Order DE 77-24, § 197-10-170, filed 12/22/77; Order 76-2, § 197-10-170, filed 3/30/76; Order 75-1, § 197-10-170, filed 12/17/75.]

**WAC 197-10-175 Exemptions and nonexemptions applicable to specific state agencies.**

(1) The exemptions in this section relate only to the specific activities identified within the named agencies. The exemptions of this section are in addition to the general exemptions of WAC 197-10-170 and 197-10-180 which apply to all agencies, including those named in this section, unless the general exemptions are specifically made inapplicable by this section.

(2) Department of licensing. All licenses required under programs administered by the department of licensing as of December 12, 1975, are exempted, except the following, which, notwithstanding WAC 197-10-170, shall not be considered exempt:

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

(b) Motor vehicle wrecker licenses required by chapter 46.80 RCW. WAC 197-10-170 (5)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

(3) Department of labor and industries. All licenses required under programs administered by the department of labor and industries as of December 12, 1975 are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives pursuant to chapter 70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

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

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

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

(c) Permits to use fuse on forest land.

(d) Log patrol licenses.

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

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

(g) All timber sales.

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

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

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

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

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

(d) All other licenses (other than those excepted in (b) and (c) above) authorized to be issued by the department as of December 12, 1975, except the following, which, notwithstanding WAC 197-10-170, shall not be considered exempt:

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

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

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

WAC 197-10-170 (5)(i) shall apply to allow possible exemption of renewals of the above licenses.

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

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

(b) The issuance of falconry permits.

(c) The issuance of all hunting or fishing licenses, permits or tags.

(d) Artificial game feeding.

(e) The issuance of scientific collector permits.

(f) All hydraulic project approvals (RCW 75.20.100) for activity incidental to a Class I, II, III or IV forest practice as defined in RCW 76.09.050, and regulations

adopted thereunder (except those forest practices designated by the forest practices board as being special forest practices and therefore subject to SEPA evaluation); and hydraulic project approvals for removal of streambed materials where the cost or fair market value of the total project is one thousand dollars or less, and other hydraulic project approvals where the cost of the total proposal is five thousand dollars or less except for proposals involving realignment into a new channel.

(7) Department of social and health services. All actions under programs administered by the department of social and health services as of December 12, 1975, are exempted, except the following, which, notwithstanding WAC 197-10-170, shall not be exempt:

(a) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material pursuant to RCW 70.98.080: *Provided*, That the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level waste burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities, or their tailings areas, whose products, or by-products, have concentrations of naturally-occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250 shall not be exempt.

(b) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units pursuant to WAC 248-54-280.

(c) The approval of engineering reports or plans and specifications pursuant to WAC 248-54-590 and 248-54-600, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.

(d) The approval of an application for a certificate of need pursuant to RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(e) The approval of an application for any system of sewerage and/or water general plan or amendments thereto pursuant to RCW 36.94.100.

(f) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department pursuant to WAC 248-92-040.

(g) The construction of any building, facility or other installation not exempt by WAC 197-10-170 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

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

(8) Department of agriculture. All actions under programs administered by the department of agriculture as

of December 12, 1975 are exempted, except for the following, which, notwithstanding the provisions of WAC 197-10-170, shall not be considered exempt:

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

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

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

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

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

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

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

(h) The provisions of WAC 197-10-170 (5)(i) shall apply to allow possible exemption of renewals of the licenses in (a) through (g) above.

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

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

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

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

(a) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 U.S.C. section 402.

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

(c) Establishment and changing of speed limits of 55 miles per hour or less;

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

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

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

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

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

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

(11) Utilities and transportation. All actions of the utilities and transportation commission under programs administered as of December 12, 1975 are exempted, except the following, which, notwithstanding WAC 197-10-170, shall not be considered exempt:

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

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

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

(d) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 197-10-170, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

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

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

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

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

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

(e) The conduct of research and economic analysis as authorized by RCW 43.31.070 including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under the provisions of RCW 43.31-.160, 43.31.200, and 43.31.210.

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

(a) Office of the attorney general.

(b) Office of the auditor.

(c) Department of employment security.

- (d) Office of the insurance commissioner and state fire marshal.
- (e) Department of personnel.
- (f) Department of printing.
- (g) Department of revenue.
- (h) Office of the secretary of state.
- (i) Office of the treasurer.
- (j) Arts commission.
- (k) Washington state patrol.
- (l) Interagency committee for outdoor recreation.
- (m) Department of emergency services.
- (n) Department of general administration, division of banking and division of savings and loan associations.
- (o) Forest practices appeals board.
- (p) Public employees' retirement system.
- (q) Law enforcement officers' and fire fighters' retirement board.
- (r) Volunteer fireman's retirement system board.
- (s) State department of retirement systems.
- (t) Teachers' retirement system board.
- (u) Higher education personnel board.
- (v) Commission for vocational education. [Order DE 77-24, § 197-10-175, filed 12/22/77; Order 75-1, § 197-10-175, filed 12/17/75.]

**WAC 197-10-177 Environmentally sensitive areas.**

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

(2) Each county/city which adopts and maps environmentally sensitive areas may select certain categorical exemptions which do not apply within various environmentally sensitive areas. The selection of exemptions that will not apply may be made from the following list: WAC 197-10-170 (1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d), (f) and (i); and, (19)(d), (f), (h), and (i). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency which do not apply within the various environmentally sensitive areas shall be listed within the SEPA guidelines of any county/city adopting such areas.

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

(4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless

of whether or not lands covered by water are mapped. [Order DE 77-24, § 197-10-177, filed 12/22/77; Order 75-1, § 197-10-177, filed 12/17/75.]

**WAC 197-10-180 Exemption for emergency actions.** Actions which must be undertaken immediately, or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their guidelines. [Order DE 77-24, § 197-10-180, filed 12/22/77; Order 75-1, § 197-10-180, filed 12/17/75.]

**WAC 197-10-190 Use and effect of categorical exemptions.** (1) Those activities excluded from the definition of "action" in WAC 197-10-040(2), or categorically exempted by WAC 197-10-170, 197-10-175, and 197-10-180, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of these guidelines and RCW 43.21C.030 (2)(c) and (2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt. For these proposals, exempt actions may be undertaken prior to the threshold determination. For each such proposal a lead agency shall be determined, and a threshold determination shall be made prior to any major action with respect to the proposal, and prior to any decision by the lead agency irreversibly committing itself to adopt or approve the proposal.

(3) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt. The determination that a proposal is not exempt because of this subsection shall be made only by the lead agency for that proposal. [Order DE 77-24, § 197-10-190, filed 12/22/77; Order 75-1, § 197-10-190, filed 12/17/75.]

**WAC 197-10-200 Lead agency--Responsibilities.**

The lead agency shall be the only agency responsible for complying with the threshold determination procedures of WAC 197-10-300 through 197-10-390; and the lead agency shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 197-10-400 through 197-10-495, including the circulation of such statements, and the conduct of any public hearings required by this chapter. The lead agency shall also prepare or supervise preparation of any required final EIS pursuant to WAC 197-10-550 through 197-10-695. [Order 75-1, § 197-10-200, filed 12/17/75.]

**WAC 197-10-203 Determination of lead agency--Procedures.** (1) The first agency receiving or initiating a proposal for a major action, or for any part of a proposal

when the total proposal involves a major action, shall determine the lead agency for that proposal. Agencies shall determine the lead agency for all proposals for a major action they receive, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in WAC 197-10-205 through 197-10-245.

(2) If the acting agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and explanation thereof. If the agency receiving this determination agrees that it is the lead agency, it shall so notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 197-10-260.

(3) If the acting agency determines that it is the lead agency, it shall immediately mail a copy of its determination and explanation thereof to all other agencies with jurisdiction over the proposal. The acting agency shall then proceed, as the lead agency, to the threshold determination procedure of WAC 197-10-300 through 197-10-390. If another agency with jurisdiction objects to the lead agency determination, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 197-10-260.

(4) Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition to CEP for a lead agency determination within fifteen days of receiving the determination.

(5) To make the lead agency determination, an acting agency must determine to the best of its ability the other agencies with jurisdiction over the proposal. This can be done by requesting the information from a private applicant, or through consultation with the information centers established pursuant to RCW 90.62.120, within the Environmental Coordination Procedures Act of 1973 (ECPA). [Order DE 77-24, § 197-10-203, filed 12/22/77; Order 75-1, § 197-10-203, filed 12/17/75.]

**WAC 197-10-205 Lead agency designation--Governmental proposals.** The lead agency for all proposals initiated by an agency shall be the agency making that proposal. In the event that two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity. [Order DE 77-24, § 197-10-205, filed 12/22/77; Order 75-1, § 197-10-205, filed 12/17/75.]

**WAC 197-10-210 Lead agency designation--Proposals involving both private and public construction activity.** When the total proposal will involve both private and public construction activity, it shall be characterized

as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in which agency and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined pursuant to WAC 197-10-205. [Order 75-1, § 197-10-210, filed 12/17/75.]

**WAC 197-10-215 Lead agency designation--Private projects for which there is only one agency with jurisdiction.** For proposed private projects for which there is only one agency with jurisdiction, the lead agency shall be the agency with jurisdiction. [Order 75-1, § 197-10-215, filed 12/17/75.]

**WAC 197-10-220 Lead agency designation--Private projects requiring licenses from more than one agency, when one of the agencies is a county/city.** For proposals for private projects which require nonexempt licenses from more than one agency when at least one of the agencies requiring such a license is a county/city, the lead agency shall be the nonexempt county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county. [Order DE 77-24, § 197-10-220, filed 12/22/77; Order 75-1, § 197-10-220, filed 12/17/75.]

**WAC 197-10-225 Lead agency designation--Private projects requiring licenses from more than one state agency.** (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

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

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

(3) When, due to the provision of subsection (1) of this section, an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program. [Order DE 77-24, § 197-10-225, filed 12/22/77; Order 75-1, § 197-10-225, filed 12/17/75.]



**WAC 197-10-230 Lead agency designation--Specific proposals.** Notwithstanding the lead agency designation criteria contained in WAC 197-10-205 through 197-10-225, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC): *Provided*, That for any public project requiring such certification and for which the study authorized by RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

(2) For all private projects relating to the utilization of geothermal resources subject to chapter 79.76 RCW, the lead agency shall be the department of natural resources.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee pursuant to chapter 78.52 RCW, the lead agency shall be the department of natural resources, except that for projects subject to RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For all private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be the department of natural resources: *Provided*, That for any proposal which will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.

(5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question: *Provided*, That this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

(6) For all proposals which are being processed under the Environmental Coordination Procedures Act of 1973 (ECPA), chapter 90.62 RCW, the lead agency shall be determined pursuant to the standards of these guidelines.

(7) For private projects which require the issuance of a National Pollutant Discharge Elimination System (NPDES) permit under section 402 of the Federal Water Pollution Control Act (33 U.S.C. section 1342), for a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(8) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(9) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.

(10) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(11) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(12) For proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent or more of design capacity, the lead agency shall be the department of ecology.

(13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas, generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services. [Order DE 77-24, § 197-10-230, filed 12/22/77; Order 75-1, § 197-10-230, filed 12/17/75.]

**WAC 197-10-235 Local agency transfer of lead agency status to a state agency.** For any proposal for a private project where a city or town with a population of under five thousand or a county of fifth through ninth class would be the lead agency pursuant to WAC 197-10-210 through 197-10-230, and when one or more state agencies are agencies with jurisdiction over the proposal, such local agency may at its option transfer the lead agency duties to that state agency with jurisdiction appearing first on the priority listing in WAC 197-10-225. In such event, the state agency so determined shall be the lead agency and the agency making the transfer shall be an agency with jurisdiction. Transfer is accomplished by the county, city or town transmitting a notice of the transfer together with any relevant information it may have on the proposal to the appropriate state agency with jurisdiction. The local agency making the transfer shall also give notice of the transfer to any private applicant and other agencies with jurisdiction involved in the proposal. [Order DE 77-24, § 197-10-235, filed 12/22/77; Order 75-1, § 197-10-235, filed 12/17/75.]

**WAC 197-10-240 Agreements as to lead agency status.** Any agency may assume lead agency if all agencies with jurisdiction agree. [Order DE 77-24, § 197-10-240, filed 12/22/77; Order 75-1, § 197-10-240, filed 12/17/75.]

**WAC 197-10-245 Agreements between agencies as to division of lead agency duties.** Two or more agencies may by agreement share or divide the responsibilities of lead agency through any arrangement agreed upon. In such event, however, the agencies involved shall designate one of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these guidelines. Other agencies with

jurisdiction shall be notified of the agreement and determination of the nominal lead agency. [Order 75-1, § 197-10-245, filed 12/17/75.]

**WAC 197-10-260 Dispute as to lead agency determination--Resolution by CEP.** (1) In the event that the agencies with jurisdiction are unable to determine which agency is the lead agency under these guidelines, any agency with jurisdiction may petition CEP for a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The petition shall be filed with CEP within fifteen days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any private applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with CEP a written response to the petition within ten days of the date of the initial filing.

(2) Within fifteen days of receipt of a petition, CEP shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. CEP shall make its determination in accordance with these guidelines. In the event the guidelines do not control, the lead agency shall be the agency whose action, license, or licenses will have the greatest effect on the environment. [Order DE 77-24, § 197-10-260, filed 12/22/77; Order 75-1, § 197-10-260, filed 12/17/75.]

**WAC 197-10-270 Assumption of lead agency status by another agency with jurisdiction.** When there has been an assumption of lead agency status by another agency with jurisdiction over a proposal, pursuant to WAC 197-10-345, the lead agency responsibilities regarding threshold determination procedures (WAC 197-10-300 through 197-10-390) transfer to the new lead agency. [Order DE 77-24, § 197-10-270, filed 12/22/77; Order 75-1, § 197-10-270, filed 12/17/75.]

**WAC 197-10-300 Threshold determination requirement.** (1) Except as provided in subsection (2) hereof, a threshold determination shall be made for every proposal for a major action. The responsible official designated by the lead agency shall be responsible for making the threshold determination.

(2) The threshold determination requirement may be omitted when:

(a) Both the responsible official and the sponsor (public or private) of a proposal agree that an EIS is required, or

(b) The sponsor of the proposal and the lead agency are the same entity and decides that an EIS is required.

(3) When the threshold determination is omitted, no environmental checklist is required unless a private applicant requests predraft consultation pursuant to WAC 197-10-410. [Order DE 77-24, § 197-10-300, filed 12/22/77; Order 75-1, § 197-10-300, filed 12/17/75.]

**WAC 197-10-305 Recommended timing for threshold determination.** In most cases the time required to complete a threshold determination should not exceed fifteen days. The initial review of a completed environmental checklist can usually be completed in a matter of hours. If further information is required to make the threshold determination, the time required will vary, depending upon the nature of the proposal and the information required. When a private applicant requests notification of the date when a threshold determination will be made, the lead agency shall so notify the private applicant in writing. [Order DE 77-24, § 197-10-305, filed 12/22/77; Order 75-1, § 197-10-305, filed 12/17/75.]

**WAC 197-10-310 Threshold determination procedures--Environmental checklist.** (1) An environmental checklist substantially in the form provided in WAC 197-10-365 shall be completed for any proposed major action before making the threshold determination. Every "yes" and "maybe" answer on the checklist shall be explained. Persons completing the checklist may also explain "no" answers. Persons filling out an environmental checklist may make reference to studies or reports which are available to the agency to which the checklist is being submitted.

(2) No environmental checklist or threshold determination is required for proposals that are exempted by WAC 197-10-170, 197-10-175 and 197-10-180. [Order DE 77-24, § 197-10-310, filed 12/22/77; Order 75-1, § 197-10-310, filed 12/17/75.]

**WAC 197-10-320 Threshold determination procedures--Initial review of environmental checklist.** The lead agency shall conduct an initial review of the environmental checklist for the proposal together with any supporting documentation. This initial review shall be made without requiring further information from the applicant. In making this initial review, the lead agency shall independently evaluate each item on the checklist and indicate the results of this evaluation. [Order DE 77-24, § 197-10-320, filed 12/22/77; Order 75-1, § 197-10-320, filed 12/17/75.]

**WAC 197-10-330 Threshold determination procedures--Information in addition to checklist.** (1) The threshold determination by the lead agency must be based upon information reasonably sufficient to determine the environmental impact of a proposal. If, after its initial review of the environmental checklist, the lead agency determines the information available to it is not reasonably sufficient to make this determination, one or more of the following may be initiated:

(a) The applicant may be required to furnish further information. This additional information shall be limited to the subjects on the environmental checklist. An applicant may be required to provide explanations of any "no" answers to questions on the checklist.

(b) The lead agency may initiate further studies, including physical investigations on the subject property,

directed toward providing additional information on the environmental impacts of the proposal.

(c) The lead agency may consult with other agencies with jurisdiction over the proposal, requesting substantive information as to potential environmental impacts of the proposal which lie within the area of expertise of the particular agency so consulted. Consulted agencies shall respond in accordance with WAC 197-10-500 through 197-10-540.

(2) When the lead agency obtains information reasonably sufficient to assess the adverse environmental impacts of the proposal, it shall immediately make the threshold determination. In the event that the further investigations authorized by this section do not provide information reasonably sufficient to assess any potential adverse environmental impacts of the proposal, an EIS shall be prepared. [Order DE 77-24, § 197-10-330, filed 12/22/77; Order 75-1, § 197-10-330, filed 12/17/75.]

**WAC 197-10-340 Threshold determination procedures—Negative declarations.** (1) In the event the lead agency determines a proposal will not have a significant adverse impact on the quality of the environment, it shall prepare a proposed or final declaration of nonsignificance, as appropriate, substantially in the form provided in WAC 197-10-355.

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

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

(a) Proposals which have another agency with jurisdiction, except that agencies may specify in their own agency SEPA guidelines specific situations in which written concurrence may be obtained from the other agency or agencies with jurisdiction and the proposed declaration of nonsignificance omitted and a final declaration of nonsignificance issued.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 197-10-170 (1)(n) or 197-10-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 197-10-170, 197-10-175 or 197-10-180.

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

(5) Any person or agency may submit written comments on the proposed declaration of nonsignificance to the lead agency within fifteen days from the date of its issuance. The lead agency shall take no further action on the proposal, which is the subject of the proposed declaration of nonsignificance, for fifteen days from the date of issuance. If comments are received, the lead agency

shall reconsider its proposed declaration; however, the lead agency is not required to modify its proposed declaration of nonsignificance to reflect the comments received.

(6) After the fifteen day time period, and after considering any comments, the lead agency shall adopt its proposed declaration as a "Final Declaration of Nonsignificance," determine that the proposal is significant, or utilize the additional information gathering mechanisms of WAC 197-10-330(1).

(7) When a final declaration of nonsignificance results from a proposed declaration of nonsignificance, that final declaration of nonsignificance shall be sent to the department of ecology headquarters office in Olympia. The department of ecology shall list it on the "SEPA register" as specified in WAC 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 197-10-345. [Order DE 77-24, § 197-10-340, filed 12/22/77; Order 75-1, § 197-10-340, filed 12/17/75.]

**WAC 197-10-345 Assumption of lead agency status by another agency with jurisdiction over a proposal—Prerequisites, effect and form of notice.** (1) An agency with jurisdiction over a proposal, upon review of a proposed declaration of nonsignificance, may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." This notice shall be substantially similar to that described in subsection (4) below. Assumption of lead agency status shall take place only within fifteen days of issuance of the proposed declaration of nonsignificance (as provided for in WAC 197-10-340).

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

(3) As a result of transmitting a completed form of the notice contained in subsection (4) below and attached declaration of significance, the consulted agency with jurisdiction shall become the "new" lead agency and shall expeditiously prepare a draft and a final EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.

(4) The form of "Notice of Assumption of Lead Agency Status" is as follows:

FORM OF NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of Proposal
Proponent
Location of Proposal
Initial Lead Agency
New Lead Agency

This proposal was determined by the initial lead agency to have no significant adverse impact upon the environment, according to the proposed declaration of nonsignificance dated ... A review of the information relative to the environmental checklist has been made by the new lead agency and in its opinion an EIS is required for the proposal.

Responsible Official
Position/Title
Address/Phone
Date Signature

(5) A completed form of notice, together with a declaration of significance, shall be transmitted to the initial lead agency, any other agencies with jurisdiction and the proponent of the proposal.

(6) Agencies with jurisdiction may still comment critically upon a proposed declaration of nonsignificance without assuming lead agency status. No agency shall be deemed to have assumed lead agency status unless a notice substantially in the form of subsection (4) hereof is completed and transmitted by that agency.

WAC 197-10-350 Affirmative threshold determination. (1) In the event the lead agency determines that the proposal will have a significant adverse effect upon the quality of the environment, it shall prepare a declaration of significance using the form in WAC 197-10-355. This form shall be retained in the files of the lead agency with a copy sent to the applicant in the case of a private project.

(2) If the additional information gathering mechanisms of WAC 197-10-330 have been utilized, and the lead agency reasonably believes that the proposal could have a significant adverse impact, the affirmative threshold determination shall be made.

24, § 197-10-350, filed 12/22/77; Order 75-1, § 197-10-350, filed 12/17/75.]

WAC 197-10-355 Form of declaration of significance/nonsignificance. (1) A declaration substantially in the form set forth in subsection (2) of this section shall be used for all declarations of significance and proposed and final declarations of nonsignificance.

(2) The form is as follows:

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

Description of Proposal
Proponent
Location of Proposal
Lead Agency

This proposal has been determined to (have/not have) a significant adverse impact upon the environment. An EIS (is/is not) required under RCW 43.21C.030(2)(c). This decision was made after review by the lead agency of a completed environmental checklist and other information on file with the lead agency.

Responsible Official
Position/Title
Date Signature

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

WAC 197-10-360 Threshold determination criteria--Application of environmental checklist. (1) The lead agency shall apply the questions in the environmental checklist to the total proposal, including its indirect effects (see WAC 197-10-060), to determine whether the proposal will result in a significant adverse impact upon the quality of the environment.

(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.

is an important factor. The same project may have a significant adverse impact in one location, but not in another location. The absolute quantitative effects of the proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment. The lead agency shall also be alert to the possibility that several marginal impacts when taken together will result in a significant adverse environmental impact. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted. If, after the lead agency has utilized the additional information gathering mechanisms of WAC 197-10-330, the impacts of the proposal are still in doubt, and there exists a reasonable belief by the lead agency that the proposal could have a significant adverse impact, an EIS is required.

(3) It should also be remembered that proposals designed to improve the environment (such as sewage treatment plants or pollution control requirements) may also have adverse environmental impacts. The question at the threshold determination level is not whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather if the proposal involves any significant adverse impacts upon the quality of the environment. If it does, an EIS is required. No test of balance shall be applied at the threshold determination level.

(4) Additional research or field investigations by either the lead agency or by the private applicant is required when the information available to the lead agency is not sufficient for it to make a determination of the potential adverse environmental impacts (see WAC 197-10-330). It is expected, however, that many proposals can be evaluated entirely through an office review (see WAC 197-10-320) of the environmental checklist, and that for other proposals, the majority of the questions in the environmental checklist may be answered in the same manner. [Order DE 77-24, § 197-10-360, filed 12/22/77; Order 75-1, § 197-10-360, filed 12/17/75.]

**WAC 197-10-365 Environmental checklist.** (1) The form in subsection (2) is the environmental checklist. Agencies may at their option revise the format of this form; however, the language of the questions shall not be changed. The questions appearing in the environmental checklist are exclusive, and considerations which do not appear in it or in WAC 197-10-360 shall not be used in making a threshold determination. This checklist does not supersede or void application forms required under any other federal or state statute or local ordinance, but rather is supplemental.

(2) Environmental checklist form:

ENVIRONMENTAL CHECKLIST

**Introduction:** The State Environmental Policy Act of 1971, chapter 43.21C RCW, requires all state and local governmental agencies to consider environmental values both for their own actions and when licensing private proposals. The Act also requires that an EIS be prepared for all major actions significantly affecting the quality of

the environment. The purpose of this checklist is to help the agencies involved determine whether or not a proposal is such a major action.

Please answer the following questions as completely as you can with the information presently available to you. Where explanations of your answers are required, or where you believe an explanation would be helpful to government decision makers, include your explanation in the space provided, or use additional pages if necessary. You should include references to any reports or studies of which you are aware and which are relevant to the answers you provide. Complete answers to these questions now will help all agencies involved with your proposal to undertake the required environmental review without unnecessary delay.

The following questions apply to your total proposal, not just to the license for which you are currently applying or the proposal for which approval is sought. Your answers should include the impacts which will be caused by your proposal when it is completed, even though completion may not occur until sometime in the future. This will allow all of the agencies which will be involved to complete their environmental review now, without duplicating paperwork in the future.

NOTE: This is a standard form being used by all state and local agencies in the State of Washington for various types of proposals. Many of the questions may not apply to your proposal. If a question does not apply, just answer it "no" and continue on to the next question.

ENVIRONMENTAL CHECKLIST FORM

I. BACKGROUND

1. Name of Proponent -----
2. Address and Phone Number of Proponent:  
-----  
-----  
-----
3. Date Checklist Submitted -----
4. Agency Requiring Checklist -----
5. Name of Proposal, if applicable:  
-----
6. Nature and Brief Description of the Proposal (including but not limited to its size, general design elements, and other factors that will give an accurate understanding of its scope and nature):  
-----  
-----  
-----
7. Location of Proposal (describe the physical setting of the proposal, as well as the extent of the land area affected by any environmental impacts, including any other information needed to give an accurate understanding of the environmental setting of the proposal):  
-----  
-----  
-----

- |                                                                                                                                                                                                                                    | Yes | Maybe | No |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------|----|
| 8. Estimated Date for Completion of the Proposal:<br>-----                                                                                                                                                                         |     |       |    |
| 9. List of all Permits, Licenses or Government Approvals Required for the Proposal (federal, state and local—including rezones):<br>-----<br>-----                                                                                 |     |       |    |
| 10. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain:<br>-----<br>-----                                                                      |     |       |    |
| 11. Do you know of any plans by others which may affect the property covered by your proposal? If yes, explain:<br>-----<br>-----                                                                                                  |     |       |    |
| 12. Attach any other application form that has been completed regarding the proposal; if none has been completed, but is expected to be filed at some future date, describe the nature of such application form:<br>-----<br>----- |     |       |    |

stream or the bed of the ocean or any bay, inlet or lake? --- --- ---

**Explanation:** -----  
-----

(2) **Air.** Will the proposal result in: --- --- ---

(a) Air emissions or deterioration of ambient air quality? --- --- ---

(b) The creation of objectionable odors? --- --- ---

(c) Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally? --- --- ---

**Explanation:** -----  
-----

(3) **Water.** Will the proposal result in: --- --- ---

(a) Changes in currents, or the course or direction of water movements, in either marine or fresh waters? --- --- ---

(b) Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff? --- --- ---

(c) Alterations to the course or flow of flood waters? --- --- ---

(d) Change in the amount of surface water in any water body? --- --- ---

(e) Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity? --- --- ---

(f) Alteration of the direction or rate of flow of ground waters? --- --- ---

(g) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception

II. ENVIRONMENTAL IMPACTS

(Explanations of all "yes" and "maybe" answers are required)

- |                                                                                                                                                | Yes | Maybe | No |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------|----|
| (1) <b>Earth.</b> Will the proposal result in:                                                                                                 |     |       |    |
| (a) Unstable earth conditions or in changes in geologic substructures? ---                                                                     |     |       |    |
| (b) Disruptions, displacements, compaction or overcovering of the soil? ---                                                                    |     |       |    |
| (c) Change in topography or ground surface relief features? ---                                                                                |     |       |    |
| (d) The destruction, covering or modification of any unique geologic or physical features? ---                                                 |     |       |    |
| (e) Any increase in wind or water erosion of soils, either on or off the site? ---                                                             |     |       |    |
| (f) Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or |     |       |    |

- |                                                                                                                                                                                                                   | Yes | Maybe | No  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------|-----|
| of an aquifer by cuts or excavations?                                                                                                                                                                             | --- | ---   | --- |
| (h) Deterioration in ground water quality, either through direct injection, or through the seepage of leachate, phosphates, detergents, waterborne virus or bacteria, or other substances into the ground waters? | --- | ---   | --- |
| (i) Reduction in the amount of water otherwise available for public water supplies?                                                                                                                               | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                |     |       |     |
| <b>(4) Flora.</b> Will the proposal result in:                                                                                                                                                                    |     |       |     |
| (a) Change in the diversity of species, or numbers of any species of flora (including trees, shrubs, grass, crops, microflora and aquatic plants)?                                                                | --- | ---   | --- |
| (b) Reduction of the numbers of any unique, rare or endangered species of flora?                                                                                                                                  | --- | ---   | --- |
| (c) Introduction of new species of flora into an area, or in a barrier to the normal replenishment of existing species?                                                                                           | --- | ---   | --- |
| (d) Reduction in acreage of any agricultural crop?                                                                                                                                                                | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                |     |       |     |
| <b>(5) Fauna.</b> Will the proposal result in:                                                                                                                                                                    |     |       |     |
| (a) Changes in the diversity of species, or numbers of any species of fauna (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?                               | --- | ---   | --- |
| (b) Reduction of the numbers of any unique, rare or endangered species of fauna?                                                                                                                                  | --- | ---   | --- |

- |                                                                                                                                                                                                                                              | Yes | Maybe | No  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------|-----|
| (c) Introduction of new species of fauna into an area, or result in a barrier to the migration or movement of fauna?                                                                                                                         | --- | ---   | --- |
| (d) Deterioration to existing fish or wildlife habitat?                                                                                                                                                                                      | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |
| <b>(6) Noise.</b> Will the proposal increase existing noise levels?                                                                                                                                                                          | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |
| <b>(7) Light and Glare.</b> Will the proposal produce new light or glare?                                                                                                                                                                    | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |
| <b>(8) Land Use.</b> Will the proposal result in the alteration of the present or planned land use of an area?                                                                                                                               | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |
| <b>(9) Natural Resources.</b> Will the proposal result in:                                                                                                                                                                                   |     |       |     |
| (a) Increase in the rate of use of any natural resources?                                                                                                                                                                                    | --- | ---   | --- |
| (b) Depletion of any nonrenewable natural resource?                                                                                                                                                                                          | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |
| <b>(10) Risk of Upset.</b> Does the proposal involve a risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions? | --- | ---   | --- |
| <b>Explanation:</b> -----<br>-----                                                                                                                                                                                                           |     |       |     |

Yes    Maybe    No

(11) **Population.** Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?    ---    ---    ---

**Explanation:** -----  
-----

(12) **Housing.** Will the proposal affect existing housing, or create a demand for additional housing?    ---    ---    ---

**Explanation:** -----  
-----

(13) **Transportation/Circulation.** Will the proposal result in:

(a) Generation of additional vehicular movement?    ---    ---    ---

(b) Effects on existing parking facilities, or demand for new parking?    ---    ---    ---

(c) Impact upon existing transportation systems?    ---    ---    ---

(d) Alterations to present patterns of circulation or movement of people and/or goods?    ---    ---    ---

(e) Alterations to waterborne, rail or air traffic?    ---    ---    ---

(f) Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?    ---    ---    ---

**Explanation:** -----  
-----

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

(a) Fire protection?    ---    ---    ---

(b) Police protection?    ---    ---    ---

(c) Schools?    ---    ---    ---

(d) Parks or other recreational facilities?    ---    ---    ---

Yes    Maybe    No

(e) Maintenance of public facilities, including roads?    ---    ---    ---

(f) Other governmental services?    ---    ---    ---

**Explanation:** -----  
-----

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

(a) Use of substantial amounts of fuel or energy?    ---    ---    ---

(b) Demand upon existing sources of energy, or require the development of new sources of energy?    ---    ---    ---

**Explanation:** -----  
-----

(16) **Utilities.** Will the proposal result in a need for new systems, or alterations to the following utilities:

(a) Power or natural gas?    ---    ---    ---

(b) Communications systems?    ---    ---    ---

(c) Water?    ---    ---    ---

(d) Sewer or septic tanks?    ---    ---    ---

(e) Storm water drainage?    ---    ---    ---

(f) Solid waste and disposal?    ---    ---    ---

**Explanation:** -----  
-----

(17) **Human Health.** Will the proposal result in the creation of any health hazard or potential health hazard (excluding mental health)?    ---    ---    ---

**Explanation:** -----  
-----

(18) **Aesthetics.** Will the proposal result in the obstruction of any scenic



	Yes	Maybe	No
vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	---	---	---

**Explanation:** -----  
-----

(19) **Recreation.** Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities? --- --- ---

**Explanation:** -----  
-----

(20) **Archeological/Historical.** Will the proposal result in an alteration of a significant archeological or historical site, structure, object or building? --- --- ---

**Explanation:** -----  
-----

III. SIGNATURE

I, the undersigned, state that to the best of my knowledge the above information is true and complete. It is understood that the lead agency may withdraw any declaration of nonsignificance that it might issue in reliance upon this checklist should there be any willful misrepresentation or willful lack of full disclosure on my part.

Proponent: -----

[Order DE 77-24, § 197-10-365, filed 12/22/77; Order 75-1, § 197-10-365, filed 12/17/75.]

**WAC 197-10-370 Withdrawal of affirmative threshold determination.** If at any time after the issuance of a declaration of significance, the proponent modifies the proposal so that, in the judgment of the lead agency, all significant adverse environmental impacts which might result are eliminated, the declaration of significance shall be withdrawn and a declaration of nonsignificance issued instead. If the proponent of a proposal is a private applicant, the proposal shall not be considered modified until all license applications for the proposal are revised to reflect the modification or other binding commitment is made by the applicant. [Order DE 77-24, § 197-10-370, filed 12/22/77; Order 75-1, § 197-10-370, filed 12/17/75.]

**WAC 197-10-375 Withdrawal of negative threshold determination.** (1) Except after a nonexempt license has been issued for a private project, the lead agency may

withdraw any proposed or final declaration of nonsignificance when new information becomes available to it indicating that the proposal may have significant adverse environmental impacts.

(2) The lead agency may withdraw any proposed or final declaration of nonsignificance at any time when:

(a) The proposal has been modified after the threshold determination, and such modification may cause the proposed action to have significant adverse environmental impacts, or

(b) The negative threshold determination was procured by misrepresentation or lack of full disclosure by the proponent of the proposal.

(3) Whenever a negative threshold determination is withdrawn pursuant to this section, the lead agency shall immediately reevaluate the proposal and make a revised threshold determination pursuant to WAC 197-10-300 through 197-10-360.

(4) Whenever a final declaration of nonsignificance has been withdrawn for one of the reasons in subsection (2), and the lead agency, after reevaluation, determines that the proposal will have significant adverse environmental impacts, agencies with jurisdiction shall initiate procedures to suspend, modify or revoke, as appropriate, any nonexempt licenses issued for the proposal until compliance with the procedures of these guidelines is met. [Order DE 77-24, § 197-10-375, filed 12/22/77; Order 75-1, § 197-10-375, filed 12/17/75.]

**WAC 197-10-380 Intraagency appeals of threshold determinations.** Agencies may provide in their guidelines for internal review or appeals of threshold determinations, including appeals initiated by members of the public. The time required to complete any such review or appeal mechanisms may be considered an addition to that recommended by WAC 197-10-305. [Order DE 77-24, § 197-10-380, filed 12/22/77; Order 75-1, § 197-10-380, filed 12/17/75.]

**WAC 197-10-390 Effect of threshold determination by lead agency.** (1) Except as provided in subsection (2) below, a threshold determination by the lead agency is binding upon all agencies. No agency shall repeat the threshold determination procedures for substantially the same proposal. This section shall not be construed to permit or prohibit judicial review of a threshold determination by a court, or quasi-judicial review of a threshold determination by an agency during an administrative hearing.

(2) An agency with jurisdiction over a proposal, upon receipt of a proposed declaration of nonsignificance from the lead agency, may complete and transmit a notice of assumption of lead agency status after meeting the requirements of WAC 197-10-345. As a result of compliance with WAC 197-10-345, the agency with jurisdiction has in effect reversed the decision of the initial lead agency regarding environmental insignificance and as the new lead agency, will be required to prepare a draft EIS and exercise the other responsibilities of a lead agency under these guidelines. [Order DE 77-24, § 197-

10-390, filed 12/22/77; Order 75-1, § 197-10-390, filed 12/17/75.]

**WAC 197-10-400 Duty to begin preparation of a draft EIS.** After compliance with WAC 197-10-350, relating to preparation of a declaration of significance the lead agency shall prepare the draft and final EIS in compliance with WAC 197-10-410 through 197-10-695. [Order DE 77-24, § 197-10-400, filed 12/22/77; Order 75-1, § 197-10-400, filed 12/17/75.]

**WAC 197-10-405 Purpose and function of a draft EIS.** (1) The principal purpose of the draft EIS document is to transmit information concerning a proposed governmental action and the alternatives to that action to public officials, project sponsors, and interested citizens. While the contents of a draft EIS may span a wide spectrum of issues, the focus of the document is upon the following:

(a) The assessment of the adverse impacts upon the environment which may result from the proposed action or its alternatives, and

(b) An analysis of measures which may be taken to mitigate or eliminate those adverse impacts.

(2) Another principal function to be served by the draft EIS process is to facilitate the transmittal to the lead agency from other governmental agencies and interested citizens, substantive information concerning the adverse impacts upon the environment discussed inadequately or erroneously in the draft EIS. The draft EIS process also provides an opportunity for reviewers of the document to bring to the attention of the lead agency any issue of potential environmental concern which should be explored by the lead agency prior to the issuance of a final EIS.

(3) The purpose of an EIS is better served by short, concise documents containing summaries of, or reference to, technical data and avoiding unnecessarily detailed information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decision-making process. [Order DE 77-24, § 197-10-405, filed 12/22/77; Order 75-1, § 197-10-405, filed 12/17/75.]

**WAC 197-10-410 Predraft consultation procedures.**

(1) Predraft consultation occurs when the lead agency consults another agency with jurisdiction or expertise prior to completion of the draft EIS. Predraft consultation with another agency on proposals for private projects shall only be initiated by the lead agency when requested by a private applicant participating in the preparation of the draft EIS. Predraft consultation with another agency on public proposals may be initiated at the option of the lead agency.

(2) Predraft consultation is begun when the lead agency sends to the consulted agency a packet of the following material related to the proposal:

(a) Any application for licenses for the proposal possessed by the lead agency.

(b) A copy of the environmental checklist required by WAC 197-10-310, as reviewed pursuant to WAC 197-10-320.

(c) Any information in addition to the checklist resulting from application of WAC 197-10-330.

(d) Any other information deemed relevant to the proposal by the lead agency such as:

(i) Prior EISs;

(ii) Portions of applicable plans or ordinances; or,

(iii) Prior scientific studies applicable to the site.

(3) Agencies so consulted will have forty-five days from receipt of the packet to respond in writing to the lead agency. The required contents of the consulted agency response are governed by WAC 197-10-500 through 197-10-540.

(4) The lead agency shall incorporate the relevant information received from other agencies during the predraft consultation stage into the draft EIS, by either summarizing the major findings which are contained in each of the consulted agency's responses or utilizing all of the data received. In the event the lead agency disagrees with any conclusion expressed in the information received from the consulted agency, the conclusion shall be set forth together with the position of the lead agency. The information required by this subsection may be placed wherever in the draft EIS the lead agency deems most appropriate. There is no requirement that either the draft or final EIS include responses to predraft consultation in a separate "response" section. [Order DE 77-24, § 197-10-410, filed 12/22/77; Order 75-1, § 197-10-410, filed 12/17/75.]

**WAC 197-10-420 Preparation of EIS by persons outside the lead agency.** (1) Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or his agent, or by an outside consultant retained by either a private applicant or the lead agency. The responsible official within the lead agency shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any predraft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which relate to the subject of the EIS, pursuant to

chapter 42.17 RCW (Public Disclosure and Public Records Law; Initiative 276, 1973).

(4) Every agency shall specifically provide in its own guidelines those situations in which a private applicant may be required or authorized to help prepare an EIS. Agency guidelines may not require more information of a private applicant than allowed by this chapter, but may authorize a lesser degree of participation than allowed herein. This chapter shall not be construed to prohibit an agency from charging any fee of an applicant which the agency is otherwise authorized to charge (see WAC 197-10-860).

(5) No private applicant shall be required to participate in the preparation of an EIS except when consistent with the guidelines of the lead agency. A private applicant may, however, volunteer to provide any information or effort desired, so long as the contents and organization of the resulting EIS are supervised and approved by the responsible official, as required by this section.

(6) The provisions of this section apply to both the draft and final EIS. [Order DE 77-24, § 197-10-420, filed 12/22/77; Order 75-1, § 197-10-420, filed 12/17/75.]

**WAC 197-10-425 Organization and style of a draft EIS.** (1) The required contents of a draft EIS for proposals of both a project and nonproject nature are set forth in WAC 197-10-440. The contents of a draft EIS prepared pursuant to that section shall be organized as set forth in subsections (2) and (3) of this section.

(2) Each draft EIS shall begin with an introduction, table of contents, distribution list, summary, and a description of the proposed action. The information contained in each section shall conform to the applicable requirements set forth in WAC 197-10-440(1) through 197-10-440(6). Organization variation is not permitted for these portions of the draft EIS.

(3) The organization and style of the remaining content of the EIS may be varied, at the option of the lead agency, from the format set forth in WAC 197-10-440(7) through 197-10-440(14): *Provided*, That all of the subject matters required by WAC 197-10-440 shall be contained somewhere within the draft EIS.

(4) The lead agency that prepares a draft EIS should keep in mind that the purpose of a draft EIS is to aid decision-makers in considering the significant environmental impacts of their decisions. This purpose is not served by EISs which are excessively detailed and overly technical. Clarity and conciseness of presentation are of crucial importance in ensuring that EISs prepared under these guidelines are considered and actually utilized in decision-making processes. [Order 75-1, § 197-10-425, filed 12/17/75.]

**WAC 197-10-440 Contents of a draft EIS.** (1) The following subsections set forth the required contents of a draft EIS: *Provided*, That where an agency is preparing a draft EIS in order to satisfy the requirements of NEPA, as well as SEPA, and the regulations of the applicable federal agency require items in addition to that set forth below, then the contents of the draft EIS may

be modified as necessary to meet the requirements of that federal agency.

(2) Introduction. The following information shall be briefly given at the beginning of the draft EIS:

(a) Action sponsor, and a brief (one or two sentence) description of the nature of the proposal and its location (street address, or nearest crossroads or cross-streets).

(b) Lead agency, responsible official, and the name and address of a contact person to whom comments, information and questions may be sent.

(c) Authors and principal contributors to the draft EIS and the nature or subject area of their contribution.

(d) List of all licenses which the proposal is known to require. The responsible official shall attempt to make this list as complete and specific as possible. Licenses shall be listed by name and agency.

(e) Location of EIS background data.

(f) Cost to the public for a copy of the EIS pursuant to chapter 42.17 RCW.

(g) Date of issue of the draft EIS.

(h) Dates by which consulted agency and public comments must be received to be incorporated into the final EIS.

(3) Table of contents.

(4) Distribution list. The draft EIS shall include a list of the names of all agencies, federal agencies, organizations and persons to whom the draft EIS will be sent upon publication (see WAC 197-10-460).

(5) Summary of the contents of the draft EIS. Each draft EIS shall contain a summary of its contents as an aid to the agency decision makers. The lead agency is to bear in mind that agencies other than the lead agency may be utilizing the EIS as an aid in decision making. Therefore, care should be taken to ensure that the scope of the summary and the EIS is sufficiently broad to be useful to those other agencies being requested to license or approve a proposal. The summary shall contain only a short restatement of the main points discussed in the EIS for each of the subjects covered. In the event impacts cannot be predicted with certainty, the reason for uncertainty together with the more likely possibilities should be concisely stated. The summary shall include a brief description of the following:

(a) The proposal, including the purpose or objectives which are sought to be achieved by the sponsor.

(b) The direct and indirect impacts upon the environment which may result from the proposal.

(c) The alternatives considered, together with any variation in impacts which may result from each alternative.

(d) Measures which may be effected by the applicant, lead agency, or other agency with jurisdiction to mitigate or eliminate adverse impacts which may result from the proposal.

(e) Any remaining adverse impacts which cannot or will not be mitigated.

(6) Description of the proposal. The draft EIS shall include a description of the total proposal, including, but not limited to, the following:

(a) The name of the proposal and sponsors.

(b) The location of the project, or area affected by a nonproject action, including an address, if any, and a legal description: *Provided*, That where the legal description is by metes and bounds, or is excessively lengthy, a map, in lieu of a legal description, shall be included which enables a lay person to precisely understand the location of the proposal.

(c) Reference to the file numbers, if known, of any other agencies involved so the proposal's location may be identified with precision by the consulted agency.

(d) If the proposal involves phased construction, the timing of each phase should be identified. If later phases of the proposal are expected to require future environmental analyses, these should be identified.

(e) A description of the major physical and engineering aspects of the proposal. This description should be tailored to the environmental impacts, with those physical aspects of the proposal causing the greater impacts being given the more detailed description. Inclusion of detailed engineering drawings and technical data should normally be avoided. Material of this nature should be retained in agency files and supplied to consulted agencies upon request.

(f) A brief description of existing comprehensive land use plans and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.

(g) Within the general guidelines of this subsection, the lead agency has discretion to determine the content and level of detail appropriate to adequately describe the proposal.

(7) Existing environmental conditions. This section shall include the following:

(a) A general assessment of the existing environment, covering those areas of the environment listed in WAC 197-10-444.

(i) The level of detail used in presenting the existing environment should be proportionate to the impacts the proposal will have if approved.

(ii) Areas of the environment which are not relevant to the identified impacts need only be mentioned generally, or not at all.

(iii) Inventories of the species of flora and fauna present on the site should be avoided. Those species and habitats which may be significantly affected should be emphasized.

(iv) This subsection shall be brief, nontechnical, and easily understandable by lay persons, and provide the necessary background for understanding the proposal's impacts.

(b) Specific reference shall be made to those inventories and data studies which provided the informational source for part or all of the contents of this subsection.

(8) The impact of the proposal on the environment. The following items shall be included in this subsection:

(a) The known impacts resulting from the proposal within any element of the environment listed in WAC 197-10-444, the effects of which are either known to be, or which may be significant (whether beneficial or adverse), shall be discussed in detail; impacts which are

potential, but not certain to occur, shall be discussed within reason.

(b) Elements of the environment which will not be significantly affected shall be marked "N/A" (not applicable) as set forth in WAC 197-10-444(1).

(c) Direct and indirect impacts of the total proposal, as described in subsection (8)(a) above shall be examined and discussed (for example, cumulative and growth-inducing impacts).

(d) The possibility that effects upon different elements of the environment will interrelate to form significant impacts shall be considered.

(9) The relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity. The following items shall be included in this subsection:

(a) An identification of the extent to which the proposal involves trade-offs between short-term gains at the expense of long-term environmental losses.

(i) The phrases "short-term" and "long-term" do not refer to any fixed time periods, but rather are to be viewed in terms of the significant environmental impacts of the proposal.

(ii) Impacts which will narrow the range and degree of beneficial uses of the environment or pose long-term risks to human health shall be given special attention.

(b) A discussion of the benefits and disadvantages of reserving for some future time the implementation of the proposal, as opposed to possible approval of the proposal at this time.

(i) The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations.

(ii) Particular attention should be given to the possibility of foreclosing future options or alternatives by implementation of the proposal.

(10) Irreversible or irretrievable commitments of resources. The following items shall be included in this subsection:

(a) An identification of all substantial quantities of natural resources, including sources of energy and non-renewable materials, which will be committed by the proposal on a permanent or long-term basis. Commitment of natural resources also includes the lost opportunities to make other uses of the resources in question.

(b) This subsection may be integrated with subsection (9) above in order to more usefully present the information required by both sections.

(11) Adverse environmental impacts which may be mitigated. The following items shall be included in this subsection:

(a) A description of reasonable changes to the proposal which may avoid, mitigate or reduce the risk of any adverse environmental impacts.

(b) Energy conservation measures, including more efficient use of conventional techniques (e.g., insulation) as well as newer methods.

(c) Each alternative discussed in (a) and (b) above shall be evaluated in terms of its effect upon the environment, its technical feasibility, and its economic practicability.

(12) Alternatives to the proposal. This subsection shall include the following items:

(a) A description and objective evaluation of any reasonable alternative action which could feasibly attain the objective of the proposal.

(i) Reasonable alternatives shall include any action which might approximate the proposal's objective, but at a lower environmental cost or decreased level of environmental degradation.

(ii) Reasonable alternatives may be those which are capable of being effected by either the lead agency or other agency having jurisdiction.

(b) The "no-action" alternative shall be evaluated and compared to the other alternatives.

(c) The adverse environmental effects of each alternative shall be identified.

(d) The analysis of alternatives should be sufficiently detailed to permit a comparative evaluation of each alternative and the proposal as described in subsection (6) of this section.

(e) When the proposal is for a private project on a specific site, the alternatives considered shall be limited to the "no-action" alternative plus other reasonable alternative means of achieving the objective of the proposal on the same site or other sites owned or controlled by the same proponent (which may include only alterations for mitigation under subsection (11) of this section). This limitation shall not apply when the project proponent is applying for a rezone or contract rezone.

(f) Subsection (12) may be integrated with subsection (11) of this section in order to more usefully present the information required by both subsections.

(g) The use of the term "reasonable" is intended to limit both the number and range of alternatives that shall be described and evaluated in this subsection, as well as the amount or level of detail which the EIS shall employ for each alternative that is discussed and evaluated.

(13) Unavoidable adverse impacts. This subsection shall include the following items:

(a) A listing of those impacts included in subsection (8) of this section which are adverse but cannot, or will not, be mitigated or avoided.

(b) For any impact discussed in subsection (8) of this section which is determined to be nonadverse, the rationale for such determination shall be clearly stated.

(c) (Optional) A discussion of the relationship between the costs of the unavoidable adverse environmental impacts and the expected beneficial environmental impacts which will result from the implementation of the proposed action.

(14) Other issues. A draft EIS may contain a section labeled "other issues" within which those other problems and issues not pertaining to any element listed in WAC 197-10-444, but which are relevant to the proposal, shall be identified. The section shall be limited to a brief identification of such problems or issues. The lead agency may adopt guidelines that delineate the problems or issues identified under this subsection. (See WAC 197-10-446.) [Order DE 77-24, § 197-10-440, filed 12/22/77; Order 75-1, § 197-10-440, filed 12/17/75.]

**WAC 197-10-442 Special considerations regarding contents of an EIS on a nonproject action.** (1) WAC 197-10-440 applies to the contents of a draft EIS for a nonproject action. However, lead agencies have greater flexibility in their approach to achieving compliance with the requirements of WAC 197-10-440 in writing and EIS for nonproject actions, because normally less specific details are known about the proposal and any implementing projects, as well as the anticipated impacts on the environment.

(2) The lead agency should be aware that typically in developing and reviewing proposals for nonproject actions the range of alternatives is broader than in developing a proposal for a project action (which is often narrowed to a specific location and design). The proposal should be described in a manner which encourages consideration of a number of alternative methods of accomplishing its objective. 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." [Order DE 77-24, § 197-10-442, filed 12/22/77; Order 75-1, § 197-10-442, filed 12/17/75.]

**WAC 197-10-444 List of elements of the environment.** (1) Every EIS shall have appended to it a list of the elements of the environment in subsection (2), (3) and (4) of this section. The lead agency shall place "N/A" ("not applicable") next to an item when the proposal, including its indirect impacts, will not significantly affect the area (or subarea) of the environment in question. Items marked "N/A" need not be mentioned in the body of the EIS. Subsections (2) and (3) of this section correspond in subject matter to the questions contained in the environmental checklist used for threshold determination, and the questions in the checklist may be used to interpret this outline listing. (Provided, this list of elements need not be appended to an EIS being prepared to satisfy both the National Environmental Policy Act and SEPA.)

(2) ELEMENTS OF THE PHYSICAL ENVIRONMENT.

- (a) Earth.
  - (i) Geology.
  - (ii) Soils.
  - (iii) Topography.
  - (iv) Unique physical features.
  - (v) Erosion.
  - (vi) Accretion/avulsion.
- (b) Air.
  - (i) Air quality.
  - (ii) Odor.
  - (iii) Climate.
- (c) Water.
  - (i) Surface water movement.
  - (ii) Runoff/absorption.
  - (iii) Floods.
  - (iv) Surface water quantity.
  - (v) Surface water quality.
  - (vi) Ground water movement.

- (vii) Ground water quantity.
- (viii) Ground water quality.
- (ix) Public water supplies.
- (d) Flora.
  - (i) Numbers or diversity of species.
  - (ii) Unique species.
  - (iii) Barriers and/or corridors.
  - (iv) Agricultural crops.
- (e) Fauna.
  - (i) Numbers or diversity of species.
  - (ii) Unique species.
  - (iii) Barriers and/or corridors.
  - (iv) Fish or wildlife habitat.
- (f) Noise.
- (g) Light and glare.
- (h) Land use.
- (i) Natural resources.
  - (i) Rate of use.
  - (ii) Nonrenewable resources.
- (j) Risk of explosion or hazardous emissions.
- (3) ELEMENTS OF THE HUMAN ENVIRONMENT.
  - (a) Population.
  - (b) Housing.
  - (c) Transportation/circulation.
    - (i) Vehicular transportation generated.
    - (ii) Parking facilities.
    - (iii) Transportation systems.
    - (iv) Movement/circulation of people or goods.
    - (v) Waterborne, rail and air traffic.
    - (vi) Traffic hazards.
  - (d) Public services.
    - (i) Fire.
    - (ii) Police.
    - (iii) Schools.
    - (iv) Parks or other recreational facilities.
    - (v) Maintenance.
    - (vi) Other governmental services.
  - (e) Energy.
    - (i) Amount required.
    - (ii) Source/availability.
  - (f) Utilities.
    - (i) Energy.
    - (ii) Communications.
    - (iii) Water.
    - (iv) Sewer.
    - (v) Storm water.
    - (vi) Solid waste.
  - (g) Human health (including mental health).
  - (h) Aesthetics.
  - (i) Recreation.
  - (j) Archaeological/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.

[Order DE 77-24, § 197-10-444, filed 12/22/77; Order 75-1, § 197-10-444, filed 12/17/75.]

**WAC 197-10-446 Draft EIS—Optional additional elements—Limitation.** In their guidelines, agencies may add additional elements covering social, cultural and/or economic issues to the list in WAC 197-10-444. Such additional elements shall become part of the environment for EIS purposes, and not otherwise. The guidelines of the lead agency shall control the content of the EIS, even though other agencies with jurisdiction are involved in the proposal. No agency shall prescribe additional material for an EIS beyond that which is required or optionally allowed by WAC 197-10-440 and 197-10-444, or which is added to the elements of the environment by the guidelines of the lead agency pursuant to the authority in this section (see WAC 197-10-440(14)). [Order DE 77-24, § 197-10-446, filed 12/22/77; Order 75-1, § 197-10-446, filed 12/17/75.]

**WAC 197-10-450 Public awareness of availability of draft EIS.** The lead agency is encouraged, but not required, to use any reasonable method to inform the public that the draft EIS is available and of the procedures for requesting a public hearing. Examples of such methods are publication of notice in a newspaper of general circulation in the county, city or general geographic area where the proposal is located; notifying private groups that are known to be interested in a certain proposal; contacting news media personnel and encouraging news coverage; and, placing notices in appropriate regional, neighborhood or ethnic periodicals. [Order DE 77-24, § 197-10-450, filed 12/22/77; Order 75-1, § 197-10-450, filed 12/17/75.]

**WAC 197-10-455 Circulation of the draft EIS—Review period.** (1) A consulted agency shall have thirty-five days from the date of issuance in which to review the draft and forward its comments and information to the lead agency. If a consulted agency with jurisdiction requires additional time to develop and complete new data on the proposal, a fifteen day extension may be granted by the lead agency. Extensions may not be granted for any other purpose.

(2) There shall be allowed a period of thirty-five days from the date of issuance for the public to forward to the lead agency any comments upon or substantive information related to the proposal and the draft EIS. [Order DE 77-24, § 197-10-455, filed 12/22/77; Order 75-1, § 197-10-455, filed 12/17/75.]

**WAC 197-10-460 Specific agencies to which draft EIS shall be sent.** (1) The draft EIS shall be issued by sending copies to the following:

- (a) The department of ecology.
- (b) Each federal agency having jurisdiction by law over a proposed action.
- (c) Each agency having jurisdiction by law over, or environmental expertise pertaining to a proposed action,

as defined by WAC 197-10-040 and 197-10-465 (required by RCW 43.21C.030 (2)(d)).

(d) Each city/county in which adverse environmental effects identified in the draft EIS may occur if the proposed action is implemented. (This subsection does not apply to draft EISs for nonproject actions.)

(e) Each local agency or political subdivision which will be required to furnish additional public services as a result of implementation of the proposed action.

(f) The applicable regional planning commission, regional clearinghouse, 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) (Optional) Any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (e.g., local and regional libraries) may be sent a copy of the draft EIS.

(2) An agency that receives a copy of the draft EIS does not become a "consulted agency" under these guidelines due to that factor alone. (See WAC 197-10-040, 197-10-465, 197-10-510 and 197-10-520 for those provisions that define a consulted agency.) [Order DE 77-24, § 197-10-460, filed 12/22/77; Order 75-1, § 197-10-460, filed 12/17/75.]

**WAC 197-10-465 Agencies possessing environmental expertise.** The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

(1) Air quality.

- (a) Department of ecology.
- (b) Department of natural resources (only for burning in forest areas).
- (c) Department of social and health services.
- (d) Regional air pollution control authority or agency.

(2) Water resources and water quality.

- (a) Department of game.
- (b) Department of ecology.
- (c) Department of natural resources (state-owned tidelands, harbor areas or beds of navigable waters).
- (d) Department of social and health services (public water supplies, sewer systems, shellfish habitats).
- (e) Department of fisheries.
- (f) Oceanographic commission (marine waters).

(3) Fish and wildlife.

- (a) Department of game.
- (b) Department of fisheries.
- (c) Oceanographic commission (marine waters).

(4) Solid waste.

- (a) Department of ecology.

- (b) Department of fisheries (dredge spoils).
- (c) Department of social and health services.

(5) Noise.

- (a) Department of ecology.
- (b) Department of social and health services.

(6) Hazardous substances (including radiation).

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of agriculture (foods or pesticides).
- (d) Department of fisheries (introduction into waters).
- (e) Oceanographic commission (introduction into marine waters).

(7) Natural resources development.

- (a) Department of commerce and economic development.
- (b) Department of ecology.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Oceanographic commission (related to marine waters).

(8) Energy production, transmission and consumption.

- (a) Department of commerce and economic development (office of nuclear energy development—nuclear).
- (b) Department of ecology.
- (c) Department of natural resources (geothermal, coal, uranium).
- (d) State energy office.
- (e) Energy facility site evaluation council (thermal power plants).
- (f) Utilities and transportation commission.

(9) Land use and management.

- (a) Department of commerce and economic development.
- (b) Department of ecology.
- (c) Department of fisheries (affecting surface or marine waters).
- (d) Department of natural resources (tidelands or state-owned or -managed lands).
- (e) Office of community development.

(10) Transportation.

- (a) Department of transportation.
- (b) Utilities and transportation commission.
- (c) Oceanographic commission (water borne).

(11) Recreation.

- (a) Department of commerce and economic development.
- (b) Department of game.
- (c) Department of fisheries.
- (d) Parks and recreation commission.

- (e) Department of natural resources.
- (12) Archaeological/historical.
  - (a) Office of archaeology and historic preservation.
  - (b) Washington State University at Pullman (Washington archaeological research center).

[Order DE 77-24, § 197-10-465, filed 12/22/77; Order 75-1, § 197-10-465, filed 12/17/75.]

**WAC 197-10-470 Cost to the public for reproduction of environmental documents.** The lead agency shall provide a copy of any environmental document, in accordance with chapter 42.17 RCW, charging only those costs allowed therein plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these guidelines. [Order DE 77-24, § 197-10-470, filed 12/22/77; Order 75-1, § 197-10-470, filed 12/17/75.]

**WAC 197-10-480 Public hearing on a proposal--When required.** (1) If a public hearing on the proposal is held pursuant to some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any available environmental document.

(2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:

(a) The lead agency determines, in its sole discretion, that a public hearing would assist it in meeting its responsibility to implement the purposes and goals of SEPA and these guidelines; or,

(b) When fifty or more persons residing within the jurisdiction of the lead agency, or who would be adversely affected by the environmental impact of the proposal, make written request to the lead agency within thirty-five days of issuance of the draft EIS; or,

(c) When two or more agencies with jurisdiction over a proposal make written request to the lead agency within thirty-five days of the issuance of the draft EIS.

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no later than fifty-one days from the issuance of the draft EIS and no earlier than fifteen days from such date of issuance. [Order DE 77-24, § 197-10-480, filed 12/22/77; Order 75-1, § 197-10-480, filed 12/17/75.]

**WAC 197-10-485 Notice of public hearing on environmental impact of the proposal.** Notice of all public hearings to be held pursuant to WAC 197-10-480(2) shall be published in a newspaper of general circulation in the area where the project will be implemented. For nonproject actions the notice shall be published in the general area where the lead agency has its principal office. The notice shall be published no later than five days preceding the hearing. For nonproject proposals having regional or statewide applicability, copies of the notice shall be transmitted to the Olympia bureaus of the Associated Press and United Press International.

[Order DE 77-24, § 197-10-485, filed 12/22/77; Order 75-1, § 197-10-485, filed 12/17/75.]

**WAC 197-10-490 Public hearing on the proposal--Use of environmental documents.** Whenever a public hearing is held on the environmental impact of a proposal, it shall be open to discussion of all environmental documents and any written comments which have been received by the lead agency prior to the hearing. A copy of the draft EIS shall be made available for public inspection at the public hearing. [Order 75-1, § 197-10-490, filed 12/17/75.]

**WAC 197-10-495 Preparation of amended or new draft EIS.** (1) A lead agency shall prepare an amended or new draft EIS whenever it determines:

(a) That substantial changes have been made in the proposal, or significant new information concerning anticipated environmental impacts has become available subsequent to circulation of the initial draft EIS, and

(b) That circulation of a new draft EIS is necessary to provide further input and review on the proposal.

(2) In such event, the lead agency shall follow the provisions of WAC 197-10-450 through 197-10-490 for the amended or new draft EIS. [Order 75-1, § 197-10-495, filed 12/17/75.]

**WAC 197-10-500 Responsibilities of consulted agencies--Local agencies.** Each local agency, when responding to a consultation request prior to a threshold determination, participating in predraft consultation, or reviewing a draft EIS, shall provide to the lead agency that substantive data, information, test results and other material which it possesses relevant to its area of jurisdiction, to the services it will provide, or to the impacts upon it associated with the proposal. Field investigations are not required of local consulted agencies. Local agencies are not required to transmit information which has been previously transmitted to the lead agency, or which is already reflected in the draft EIS. [Order 75-1, § 197-10-500, filed 12/17/75.]

**WAC 197-10-510 Responsibilities of consulted agencies--State agencies with jurisdiction.** Each state agency with jurisdiction, when responding to a consultation request prior to a threshold determination, participating in predraft consultation, or reviewing a draft EIS, shall immediately begin the research and, if necessary, field investigations which it would normally conduct in conjunction with whatever license it requires for a proposal. In the event no license is involved, the agency with jurisdiction shall investigate the impacts of the activity it will undertake which gives it jurisdiction over a portion of the proposal. The end result of these investigations should be that each agency with jurisdiction will be able to transmit to the lead agency substantive information on those environmental impacts of the proposal which are within the scope of the license or activity of the agency with jurisdiction. An agency with jurisdiction, in its response to the lead agency, should also indicate which of the impacts it has discovered may be mitigated



or avoided and how this might be accomplished, and describe those areas of environmental risk which remain after it has conducted the investigations that may have been required. [Order DE 77-24, § 197-10-510, filed 12/22/77; Order 75-1, § 197-10-510, filed 12/17/75.]

**WAC 197-10-520 Responsibilities of consulted agencies—State agencies with environmental expertise.**

(1) When requested by the lead agency, each state agency participating in predraft consultation, or reviewing a draft EIS, lacking jurisdiction, but possessing environmental expertise pertaining to the impacts associated with a proposal (see WAC 197-10-465), shall provide to the lead agency that substantive data, information, test results or other material relevant to the proposal which the consulted agency possesses relating to its area of special expertise.

(2) The consulted agency may at its option investigate, develop and transmit whatever additional information is necessary for the lead agency to meet its responsibilities under WAC 197-10-440 or 197-10-442. [Order DE 77-24, § 197-10-520, filed 12/22/77; Order 75-1, § 197-10-520, filed 12/17/75.]

**WAC 197-10-530 Responsibilities of consulted agencies—When predraft consultation has occurred.**

When a consulted agency has engaged in the predraft consultation procedures set forth in WAC 197-10-410, the scope and depth of its required review and comment upon the draft EIS is limited to those appropriate and relevant matters which were not contained in its previous response (such as when significant new information becomes available which was not available to the consulted agency during the predraft consultation stage). [Order 75-1, § 197-10-530, filed 12/17/75.]

**WAC 197-10-535 Cost of performance of consulted agency responsibilities.**

A consulted agency shall not charge the lead agency for any costs incurred in complying with WAC 197-10-500 through 197-10-540, including, but not limited to, providing relevant data to the lead agency and the reproduction of various documents that are transmitted to the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by chapter 42.17 RCW, for the reproduction of any environmental document when the request for a copy of the document is from an agency other than the lead agency, or from an individual or private organization. [Order DE 77-24, § 197-10-535, filed 12/22/77; Order 75-1, § 197-10-535, filed 12/17/75.]

**WAC 197-10-540 Limitations on responses to consultation.**

If part or all of the relevant data possessed by a consulted agency is voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or if it consists of a report or document published by another agency, or represents a standard text or other work obtainable at a public library, such data or information may be clearly identified or cited by the consulted agency in its comments to the lead agency

and the data itself need not be transmitted. When the consulted agency identifies material pursuant to this section, it shall describe briefly the nature of such information and clearly indicate its relevance to the environmental analysis of the proposed action in question. If the details of the proposal supplied with the consultation request are not sufficient to allow a complete response, the consulted agency shall be required to transmit only that information it is capable of developing from the material sent to it with the consultation request. [Order DE 77-24, § 197-10-540, filed 12/22/77; Order 75-1, § 197-10-540, filed 12/17/75.]

**WAC 197-10-545 Effect of no written comment.**

If a consulted agency does not respond with written comments within thirty-five days of the date of issuance of draft EIS or within a fifteen-day extension period granted by the lead agency, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal upon the subject area of the consulted agency's jurisdiction or special expertise. Any consulted agency which fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with WAC 197-10-400 through 197-10-495, or with the contents of the final EIS. [Order DE 77-24, § 197-10-545, filed 12/22/77; Order 75-1, § 197-10-545, filed 12/17/75.]

**WAC 197-10-550 Preparation of the final EIS—**

**Time period allowed.** The lead agency shall prepare a final EIS within seventy-five days of issuance of the draft EIS. The lead agency may extend the time period whenever the proposal is unusually large in scope, or the environmental impact associated with the proposal is unusually complex. [Order DE 77-24, § 197-10-550, filed 12/22/77; Order 75-1, § 197-10-550, filed 12/17/75.]

**WAC 197-10-570 Preparation of the final EIS—**

**Contents—When no critical comments received on the draft EIS.** (1) If the lead agency does not receive any comments critical of the scope or content of the draft EIS, the lead agency may prepare a statement to that effect and circulate that statement in the manner prescribed in WAC 197-10-600.

(2) The statement prepared and circulated pursuant to subsection (1) above, together with the draft EIS (which is not recirculated with the statement), shall constitute the "final EIS" for the proposal: *Provided*, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies. [Order DE 77-24, § 197-10-570, filed 12/22/77; Order 75-1, § 197-10-570, filed 12/17/75.]

**WAC 197-10-580 Preparation of the final EIS—**

**Contents—When critical comments received on the draft EIS.** (1) When the lead agency receives any comments critical of the scope or content of the draft EIS, whether made in writing or made orally at any public hearing on

the environmental impact of the proposal, it shall comply with either subsection (2) or (3) below.

(2) The lead agency may determine that no changes or only minor changes are required in either the draft EIS or the proposal, despite the critical comments that were received during the commenting period. The lead agency must prepare a document containing a general response to the comments that were received, any minor changes to the EIS or proposal, the text or summary of written comments, and a summary of the oral comments made by the public at any hearing held on the proposal or its environmental impacts. The lead agency shall then circulate the document in the manner prescribed in WAC 197-10-600: *Provided*, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

(3) The lead agency may determine that it is necessary and appropriate to rewrite the contents of the draft EIS in order to respond to critical comments received during the commenting period. In such instances, the lead agency shall circulate the rewritten EIS in the manner specified in WAC 197-10-600. The lead agency shall ensure that the rewritten EIS evidences an affirmative response by the lead agency to the critical comments, or alternatively, contains a summary of those critical comments with which it does not agree.

(4) A document prepared and circulated pursuant to subsection (2) or (3) above shall constitute the "final EIS" for the proposal. [Order DE 77-24, § 197-10-580, filed 12/22/77; Order 75-1, § 197-10-580, filed 12/17/75.]

**WAC 197-10-600 Circulation of the final EIS.** The final EIS shall be issued by circulating it to the department of ecology, office of the governor or the governor's designee, the ecological commission, agencies with jurisdiction, and federal agencies with jurisdiction which received the draft EIS. It shall be made available to the public in the same manner and cost as the draft EIS. [Order DE 77-24, § 197-10-600, filed 12/22/77; Order 75-1, § 197-10-600, filed 12/17/75.]

**WAC 197-10-650 Effect of an adequate final EIS prepared pursuant to NEPA.** (1) The requirements of this chapter relating to the preparation of an EIS shall not apply when an adequate final EIS has been prepared pursuant to the national environmental policy act of 1969 (NEPA), in which event such EIS may be utilized in lieu of a final EIS separately prepared under SEPA.

(2) The final EIS of a federal agency shall be adequate unless:

(a) A court rules that it is inadequate; or,

(b) The administrator of the United States Environmental Protection Agency issues a written comment pursuant to the Federal Clean Air Act, 42 U.S.C. § 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 197-10-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the lead agency determines that the federal EIS is adequate, a notice to this effect shall be circulated as in WAC 197-10-600.

(4) If a hearing open to public comment upon the adequacy of the federal EIS has not previously been held within the jurisdiction of the SEPA lead agency, a public hearing on the sole issue of the adequacy of the content of a federal EIS shall be held if, within thirty-five days of the notice in (3) above, at least fifty persons who reside within the jurisdiction of the lead agency, or are adversely affected by the environmental impact of the proposal, make written request. The lead agency shall reconsider its determination of adequacy in view of comments received at any such public hearing. [Order DE 77-24, § 197-10-650, filed 12/22/77; Order 75-1, § 197-10-650, filed 12/17/75.]

**WAC 197-10-652 Supplementation by a lead agency of an inadequate final NEPA EIS.** When a final EIS prepared pursuant to NEPA is inadequate under the criteria set forth in WAC 197-10-650(2), then the lead agency shall either:

(1) Prepare a draft EIS independent of the final NEPA EIS or

(2) Modify or supplement the final NEPA EIS as necessary to prepare an adequate draft EIS. [Order 75-1, § 197-10-652, filed 12/17/75.]

**WAC 197-10-660 Use of previously prepared EIS for a different proposed action.** (1) An agency may adopt and utilize a previously prepared EIS, or portion thereof, to satisfy certain of the EIS requirements applicable to a different proposed action, as set forth in (2) and (3) below. In such event, two requirements shall be met:

(a) The previous EIS or portion thereof, together with any supplement to it, shall meet the requirements of these guidelines applicable to an EIS for the new proposed action, and

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

(2) When the new proposed action will have an impact on the environment that was not adequately analyzed in the previously prepared EIS, the lead agency shall prepare a draft supplemental EIS and comply with the provisions of WAC 197-10-400 through 197-10-695. The contents of the draft and final supplemental EIS shall be limited to those impacts of the proposed action which were not adequately analyzed in the earlier EIS.

(3) When the new proposed action will not have an impact on the environment that is substantially different than the impacts of the earlier proposed action, the lead agency may prepare a written statement setting forth its determination under this subsection and circulate it as provided in WAC 197-10-600. The lead agency shall not be required to prepare a new or supplemental draft or final EIS on the new proposed action when this subsection is determined to apply. However, the provisions

of WAC 197-10-480 through 197-10-490, relating to a public hearing on the environmental impact of a proposal shall apply. [Order DE 77-24, § 197-10-660, filed 12/22/77; Order 75-1, § 197-10-660, filed 12/17/75.]

**WAC 197-10-690 Use of lead agency's EIS by other acting agencies for the same proposal.** (1) When an agency is considering an action which is part of a proposal covered by a final EIS of a lead agency, and the agency was consulted as an agency with jurisdiction during the consultation process on the previous EIS because of the action it is now considering, such agency must utilize the previous EIS unchanged when it is considering its present action except under the conditions of subsection (2).

(2) An agency with jurisdiction shall review and consider supplementing an EIS prepared by the lead agency only if:

(a) The proposal has been significantly modified since the lead agency prepared the EIS; or,

(b) The action now being considered was identified in the lead agency's EIS as one which would require further environmental evaluation; or,

(c) The level of design or planning for the proposal has become more detailed, revealing inadequately analyzed impacts; or,

(d) Technical data has become available which indicates the presence of a significant adverse environmental impact.

In such cases, the acting agency shall prepare a supplement to the lead agency's EIS if it determines that significant adverse environmental impacts have been inadequately analyzed in the lead agency's EIS.

(3) If an agency is not listed as a licensing agency in the draft EIS pursuant to WAC 197-10-440 (2)(d) and did not receive a copy of the draft EIS, such agency shall not be limited by the contents of the earlier EIS in preparing its statement. [Order DE 77-24, § 197-10-690, filed 12/22/77; Order 75-1, § 197-10-690, filed 12/17/75.]

**WAC 197-10-695 Draft and final supplements to a revised EIS.** (1) In any case where the lead agency is preparing a supplement to an earlier EIS or to an EIS prepared pursuant to NEPA, it shall prepare a draft supplemental EIS and comply with WAC 197-10-450 through 197-10-470. Copies of the prior EIS, as well as the supplement, shall be transmitted to the consulted agencies which had not previously received it.

(2) Upon preparation of the draft supplemental EIS, the lead agency shall comply with WAC 197-10-550 through 197-10-580 and the final supplemental EIS, together with the prior EIS, shall be regarded as a final EIS for all purposes of these guidelines. [Order DE 77-24, § 197-10-695, filed 12/22/77; Order 75-1, § 197-10-695, filed 12/17/75.]

**WAC 197-10-700 No action for seven days after publication of the final EIS.** No agency shall take any major action (as defined in WAC 197-10-040(24)) on a proposal for which an EIS has been required, prior to

seven days from the issuance of the final EIS. [Order DE 77-24, § 197-10-700, filed 12/22/77; Order 75-1, § 197-10-700, filed 12/17/75.]

**WAC 197-10-710 EIS combined with existing planning and review processes.** The EIS process shall be combined with the existing planning, review and project approval processes being used by each agency with jurisdiction by law over a proposal. When required to be prepared, the EIS, the declaration of nonsignificance, or the previously circulated EIS being utilized pursuant to WAC 197-10-660, shall accompany a proposal through the existing review processes. [Order 75-1, § 197-10-710, filed 12/17/75.]

**WAC 197-10-800 Responsibilities of agencies to adopt guidelines.** (1) Each state and local agency is required by RCW 43.21C.120 to adopt its own rules, ordinances or resolutions governing the implementation of SEPA, consistent with the provisions of this chapter. (These state and local rules are termed "agency guidelines" in these guidelines.) State agencies shall adopt their guidelines within one hundred twenty days of the effective date of this chapter, and local agencies shall adopt their guidelines within one hundred eighty days of the effective date of this chapter.

(2) Adoption of guidelines by state agencies shall be by rule making under chapter 34.04 RCW, and adoption shall be deemed to have taken place at the time the transmittal of rules adopted is filed with the code reviser. Universities, colleges and community colleges shall utilize the procedures of chapter 28B.19 RCW, and adoption of guidelines.

(3) Local agencies shall adopt their guidelines by rule, ordinance or resolution, whichever is appropriate, to ensure that the guidelines have the full force and effect of law.

(4) Any agency which determines that all actions which it is authorized to undertake are exempt by virtue of WAC 197-10-040(2), 197-10-150 through 197-10-190 may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under the provisions of this chapter. Adoption of such a statement shall be deemed to be compliance with the requirement that such agency adopt guidelines consistent with this chapter.

(5) The adoption of agency guidelines shall not be an "action" under these guidelines. [Order 75-1, § 197-10-800, filed 12/17/75.]

**WAC 197-10-805 Agency guidelines consistent with this chapter.** (1) Agency guidelines shall implement the provisions of this chapter and be consistent therewith. Unless clearly designated as optional, all of the provisions of this chapter are mandatory and agency guidelines shall incorporate the criteria and procedures therein. Unless designated otherwise in subsection (3) of this section, the provisions of this chapter are not exclusive, and agencies may add additional procedures, and in some cases criteria to those set forth in this chapter. Such additional material may not be inconsistent with,

contradict, or make compliance with any provision of this chapter a practical impossibility; any additional provisions shall also be consistent with SEPA.

(2) Wherever a provision of this chapter is designated as optional, unless the context clearly indicates otherwise, the decision on whether an optional provision applies lies with the lead agency. The lead agency's guidelines must either require or authorize use of any optional provision before the lead agency requires compliance with any such optional provision.

(3) The following provisions of this chapter are exclusive and may not be added to or modified in agency guidelines:

(a) The definitions of "action," "agencies with jurisdiction," "environment," "lands covered by water," "license," "licensing," "major action" and "physical environment" contained in WAC 197-10-040;

(b) The information required of a private applicant by WAC 197-10-100, 197-10-310, 197-10-330, 197-10-365 and 197-10-420;

(c) The categorical exemptions of WAC 197-10-170 and 197-10-175, where the agency has legal authority over the category of action specified or it is one of the specific agencies listed in WAC 197-10-175 (exemptions may be modified only by using the procedures of WAC 197-10-150, although application of certain exemptions may be varied by designating environmentally sensitive areas pursuant to WAC 197-10-177). The emergency exemption of WAC 197-10-180 may be further specified by agency guidelines.);

(d) The criteria for lead agency determination within WAC 197-10-205 through 197-10-230 (a different lead agency may result from utilization of the procedures in WAC 197-10-235, 197-10-240, 197-10-245 and 197-10-345.

(e) The questions on the environmental checklist, WAC 197-10-365, which also constitute the exclusive environment to be considered in making the threshold determination;

(f) The subject matters contained within an EIS as provided by WAC 197-10-440, 197-10-442 and 197-10-444, except as optional additions are allowed by those sections or WAC 197-10-446; and,

(g) The list of agencies possessing environmental expertise contained in WAC 197-10-465. [Order DE 77-24, § 197-10-805, filed 12/22/77; Order 75-1, § 197-10-805, filed 12/17/75.]

**WAC 197-10-810 Responsibility of agencies-- Amendments to this chapter.** In the event that CEP or its successor agency adopts amendments to this chapter, state and local agencies shall adopt amendments of their own guidelines within one hundred twenty days and one hundred eighty days, respectively, to bring their guidelines into conformance with this chapter as amended. [Order 75-1, § 197-10-810, filed 12/17/75.]

**WAC 197-10-820 Responsibility of agencies-- Designation of responsible official.** Guidelines adopted by all agencies shall designate or provide a method of

designating the responsible official with speed and certainty. This designation may vary depending upon the nature of the proposal. The responsible official shall carry out the duties and functions of the agency when it is acting as the lead agency under these guidelines. Since it is possible under these guidelines for an agency to be acting as a lead agency prior to actually receiving an application for a license to undertake a private project, designation of the first department within the agency to receive an application as the responsible official will not be sufficient. [Order 75-1, § 197-10-820, filed 12/17/75.]

**WAC 197-10-825 Responsibility of agencies-- Procedures when consulted agency.** Each agency shall develop internal procedures for providing responses to consultation requests from other agencies pertaining to threshold investigations, predraft consultation, or draft EISs. Such procedures shall ensure that the agency will be able to comply with the requirements of WAC 197-10-500 through 197-10-540. It is recommended that these procedures be integrated within existing procedures of investigating license applications when the consulted agency is also an acting agency. [Order 75-1, § 197-10-825, filed 12/17/75.]

**WAC 197-10-831 Responsibility of agencies-- SEPA public information.** (1) SEPA documents required by this chapter shall be retained by the lead agency and made available in accordance with chapter 42.17 RCW.

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

(a) All draft and final EISs. (See WAC 197-10-460 and 197-10-600)

(b) All final declarations of nonsignificance for which a proposed declaration of nonsignificance has been circulated. (See WAC 197-10-340(7))

(3) Each week the department of ecology shall prepare a listing of the documents in 2(a) and (b) above and make the listing available to other agencies and to the public. The department may charge a reasonable fee for this list in the manner provided for in chapter 42.17 RCW. This listing shall be known as the "SEPA register."

(4) Agencies may take any additional steps they find appropriate to inform other agencies and the public of EISs in preparation, EISs available, proposed declarations of nonsignificance, final declarations of nonsignificance and other SEPA - related matters. [Order DE 77-24, § 197-10-831, filed 12/22/77.]

**WAC 197-10-840 Application of agency guidelines to ongoing actions.** (1) Agency guidelines shall apply to any proposed action when initiated subsequent to the effective date of the guidelines of the lead agency or the agency proposing the action.

(2) For proposals made prior to the effective date of the guidelines of the lead agency or the agency proposing the action, agency guidelines shall apply to those elements of SEPA compliance remaining to be undertaken

subsequent to the effective date of such guidelines. Agency guidelines adopted pursuant to RCW 43.21C.120 and the requirements of this chapter shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed prior to the effective date of the guidelines of the lead agency or agency proposing the action. [Order 75-1, § 197-10-840, filed 12/17/75.]

**WAC 197-10-860 Fees to cover the costs of SEPA compliance.** Except for the reproduction and mailing costs specifically allowed by this chapter, and the provisions of WAC 197-10-535, these guidelines neither authorize nor prohibit the imposition of fees to cover the costs of SEPA compliance. [Order 75-1, § 197-10-860, filed 12/17/75.]

**WAC 197-10-900 Applicability of this chapter.** (1) This chapter is intended to provide guidelines for the rules, ordinances, resolutions and regulations which state and local agencies are required to adopt pursuant to RCW 43.21C.120.

(2) In the event any agency fails to adopt rules, ordinances, resolutions, or regulations implementing SEPA within the time periods required by RCW 43.21C.120, the guidelines of this chapter shall be applied as practicable to the actions of such agency. [Order DE 77-24, § 197-10-900, filed 12/22/77; Order 75-1, § 197-10-900, filed 12/17/75.]

**WAC 197-10-910 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. [Order 75-1, § 197-10-910, filed 12/17/75.]