

Title 140 WAC

CONVENTION AND TRADE CENTER

Chapters

- 140-09** Washington state convention and trade center--SEPA guidelines.
140-12 General procedures.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 140-08

WASHINGTON STATE CONVENTION AND TRADE CENTER--SEPA GUIDELINES

- 140-08-010 Purpose. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-010, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW. Later promulgation, see chapter 140-09 WAC.
- 140-08-020 Policies. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-020, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-030 Adoption by reference. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-030, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-040 Additional definitions. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-040, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-050 Designation of official to perform consulted agency responsibilities for the corporation. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-050, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-060 Designation of responsible official. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-060, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-070 SEPA public information center. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-070, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-080 Responsibility of corporation--Public information. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-080, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-090 Notice/statute of limitations. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-090, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-100 Severability. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-100, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.
- 140-08-110 Compliance. [Statutory Authority: Chapter 43.21C RCW. 83-06-034 (Order 1, Resolution No. 9), § 140-08-110, filed 2/28/83.] Repealed by 85-03-004 (Order 3, Resolution No. 103), filed 1/3/85. Statutory Authority: Chapter 43.21C RCW.

Chapter 140-09 WAC

WASHINGTON STATE CONVENTION AND TRADE CENTER--SEPA GUIDELINES

WAC

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PART ONE - AUTHORITY

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-010, filed 1/3/85. Formerly chapter 140-08 WAC.]

PART TWO - GENERAL REQUIREMENTS

WAC 140-09-020 Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-020, filed 1/3/85.]

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

(1) "Corporation" means the Washington state convention and trade center as established by chapter 67.40 RCW.

(2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.

(3) "Early notice" means the corporation's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-030, filed 1/3/85.]

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

(2) For all proposals for which the corporation is the lead agency, the responsible official shall make the

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-040, filed 1/3/85.]

WAC 140-09-050 Lead agency determination and responsibilities. (1) The corporation receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940.

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

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

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-050, filed 1/3/85.]

WAC 140-09-058 Additional timing considerations. If the corporation's only action on a proposal is a decision on a license that requires detailed project plans and

specifications, the applicant may request in writing that the corporation conduct environmental review prior to submission of the detailed plans and specifications.

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-058, filed 1/3/85.]

PART THREE - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

WAC 140-09-065 Purpose of this part and adoption by reference. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The corporation adopts the following sections by reference, as supplemented in this part:

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-065, filed 1/3/85.]

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

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

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

- (a) The corporation shall not give authorization for:
 - (i) Any nonexempt action;
 - (ii) Any action that would have adverse environmental impact; or

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-080, filed 1/3/85.]

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

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

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-090, filed 1/3/85.]

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

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

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

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

(3) The corporation's response shall:

(a) Be written;

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

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

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-100, filed 1/3/85.]

PART FOUR – ENVIRONMENTAL IMPACT STATEMENT (EIS)

WAC 140-09-110 Purpose of this part and adoption by reference. This part contains the rules for preparing environmental impact statements. The corporation adopts the following sections by reference, as supplemented by this part:

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-110, filed 1/3/85.]

WAC 140-09-120 Preparation of EIS—Additional considerations. (1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the corporation under the direction of the responsible official. Before the corporation issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-120, filed 1/3/85.]

PART FIVE - COMMENTING

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

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-128, filed 1/3/85.]

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

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

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

- (i) Posting the property, for site-specific proposals;
- (ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
- (iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
- (iv) Notifying the news media;
- (v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or
- (vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas).

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

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

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

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

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

(d) Notifying the news media;

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

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-130, filed 1/3/85.]

WAC 140-09-140 Designation of official to perform consulted agency responsibilities for the corporation. (1)

The administrator of the Washington state convention and trade center shall be responsible for preparation of written comments for the corporation in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-140, filed 1/3/85.]

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

WAC 140-09-150 Purpose of this part and adoption by reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the corporation's own environmental compliance. The corporation adopts the following sections by reference:

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-150, filed 1/3/85.]

PART SEVEN - SEPA AND AGENCY DECISIONS

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

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-155, filed 1/3/85.]

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

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

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

(b) Such conditions are in writing; and

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

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

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

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

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

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

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

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

(a) The corporation shall use all practicable means, consistent with other essential considerations of state

policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

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

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

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

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

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

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

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

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-160, filed 1/3/85.]

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-173, filed 1/3/85.]

PART EIGHT - DEFINITIONS

WAC 140-09-175 Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The corporation adopts the following sections by reference, as supplemented by WAC 140-09-040:

WAC

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-175, filed 1/3/85.]

PART NINE - CATEGORICAL EXEMPTIONS

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

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-180, filed 1/3/85.]

PART TEN - AGENCY COMPLIANCE

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

WAC

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-185, filed 1/3/85.]

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

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

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-200, filed 1/3/85.]

WAC 140-09-220 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: Chapter 43.21C RCW. 85-03-004 (Order 3, Resolution No. 103), § 140-09-220, filed 1/3/85.]

PART ELEVEN - FORMS

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

WAC

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

[Statutory Authority: Chapter 43.21C RCW, 85-03-004 (Order 3, Resolution No. 103), § 140-09-230, filed 1/3/85.]

**Chapter 140-12 WAC
GENERAL PROCEDURES**

WAC

- 140-12-010 Nature and purpose of Washington state convention and trade center.
- 140-12-020 Corporation organization.
- 140-12-030 Purpose of rules.
- 140-12-040 Public records available.
- 140-12-050 Public records officer.
- 140-12-060 Request for public records.
- 140-12-070 Adoption of form.
- 140-12-080 Copying fees.
- 140-12-090 Review of denials.
- 140-12-100 Protection of public records.
- 140-12-110 Index of records not maintained.

WAC 140-12-010 Nature and purpose of Washington state convention and trade center. The Washington state convention and trade center, hereinafter referred to as the corporation, has been established pursuant to chapter 34, Laws of 1982, to acquire, design, construct, maintain, operate, promote and manage a state convention and trade center. The corporation is a public nonprofit corporation formed in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW. The corporation is an instrumentality of the state, and has all the powers, and is subject to the same restrictions as are permitted or prescribed to private nonprofit corporations, but may exercise those powers only for carrying out the purposes of chapter 34, Laws of 1982, and those purposes necessarily implied therefrom.

[Statutory Authority: RCW 42.17.250, 83-06-035 (Order 2, Resolution No. 10), § 140-12-010, filed 2/28/83.]

WAC 140-12-020 Corporation organization. (1) The corporation is governed by a board of nine directors appointed by the governor. The directors serve terms of six years, except that two of the the original directors serve for two years and two of the original directors serve for four years.

(2) The organization and methods of operation of the corporation are established in the corporation's articles

of incorporation, and in bylaws adopted by the board of directors.

(3) The administrative head of the corporation is the administrator of the Washington state convention and trade center, who is appointed by, and is responsible to, the board of directors.

(4) The principal office of the corporation shall be at Seattle, Washington, and shall be open each day for the transaction of business from 9:00 a.m. to 5:00 p.m. (Saturdays, Sundays and legal holidays excepted).

Submissions, requests and communications to the corporation shall be sent or made to the Administrator, Washington State Convention and Trade Center, 720 Olive Way, Suite 1520, Seattle, Washington 98101.

[Statutory Authority: RCW 42.17.250, 83-06-035 (Order 2, Resolution No. 10), § 140-12-020, filed 2/28/83.]

WAC 140-12-030 Purpose of rules. The purpose of WAC 140-12-040 through 140-12-110 is to ensure compliance by the Washington state convention and trade center, hereinafter referred to as the corporation, including its officers and employees, with the applicable provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.320, dealing with public records.

[Statutory Authority: RCW 42.17.250, 83-06-035 (Order 2, Resolution No. 10), § 140-12-030, filed 2/28/83.]

WAC 140-12-040 Public records available. All public records of the corporation, as defined in RCW 42.17.020(26), are deemed to be available except as provided by the applicable provisions of chapter 42.17 RCW.

[Statutory Authority: RCW 42.17.250, 83-06-035 (Order 2, Resolution No. 10), § 140-12-040, filed 2/28/83.]

WAC 140-12-050 Public records officer. The corporation's public records shall be the responsibility of the administrator of the corporation. The administrator shall be responsible for the implementation of these rules regarding release of public records and coordination and compliance by staff with the applicable provisions of chapter 42.17 RCW.

[Statutory Authority: RCW 42.17.250, 83-06-035 (Order 2, Resolution No. 10), § 140-12-050, filed 2/28/83.]

WAC 140-12-060 Request for public records. Public records may be inspected 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 in substantial compliance with the provisions of WAC 140-12-070. The form shall be available at the corporation's office and shall be presented to the administrator or to any member of the office staff. 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; and

(d) An appropriate description of the matter requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the administrator or staff to assist the member of the public in appropriately identifying the matter requested.

(3) Staff members shall make a good faith effort to respond to the request within two working days after its receipt.

(4) Public records shall be available for inspection during the customary office hours of the corporation's office.

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-060, filed 2/28/83.]

WAC 140-12-070 Adoption of form. The corporation hereby adopts the following form for use by all persons requesting inspection and/or copies of public records:

Name of Applicant

Mailing Address of Applicant

Phone Number

Date Request Made at Washington State Convention and Trade Center

Time of Day of Request Made

Nature of Request: _____

Description of Record Requested: _____

Said Records Have Not Been Requested to Provide Access to Lists of Individuals for Commercial Purposes.

Signature

Signature (please print)

Request: Approved _____ By _____
Date

Denied Date: _____

Reasons for Denial: _____

Referred to _____ By _____
Date

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-070, filed 2/28/83.]

WAC 140-12-080 Copying fees. No fees are to be charged for inspection of public records. The corporation will charge a fee not to exceed twenty-five cents per page of copy for use of the corporation's copy equipment in cases where no significant staff time is taken up with the request.

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-080, filed 2/28/83.]

WAC 140-12-090 Review of denials. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision

by submitting a written request for review to the administrator. The written request shall specifically refer to the written statement by the staff member which constituted or accompanied the denial.

(2) Immediately upon receipt of a written request for review of a decision denying a public record, the written request for review shall be referred to the administrator. The administrator or his or her designee shall consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision within two business days of the date of filing of the request for review.

(3) Administrative remedies shall not be considered exhausted until the agency has returned the request for review with a decision or until the close of the second business day following date of filing the request for review, whichever occurs first.

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-090, filed 2/28/83.]

WAC 140-12-100 Protection of public records. Requests for public records shall be made in the office of the corporation. Such records shall not be removed from the place designated for their inspection. Copies shall be made in the office or, if copying facilities are not available, the office will arrange to have copies made subject to the provisions of WAC 140-12-070.

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-100, filed 2/28/83.]

WAC 140-12-110 Index of records not maintained. The corporation does not maintain the current index of records specified in RCW 42.17.260(2). The corporation has determined, pursuant to RCW 42.17.260(3), that compliance with RCW 42.17.260(2) would unduly burden the corporation because there are a very large number and variety of documents involved in planning and constructing the state convention and trade center which would have to be indexed under RCW 42.17.260(2), and because the corporation has only a limited permanent staff. The corporation shall make available for public inspection and copying all indexes maintained by the corporation for its use.

[Statutory Authority: RCW 42.17.250. 83-06-035 (Order 2, Resolution No. 10), § 140-12-110, filed 2/28/83.]