

Replacement certificate	25.00
Duplicate license	15.00
Land surveyor in training (effective April 1, 1996):	
Application, examination,	
and certificate (\$40 exam charge; \$10	
agency fee)	50.00
Examination retake (\$40 exam	
charge; \$10 agency fee)	50.00
Replacement certificate	25.00
Engineer corporation:	
Certificate of authorization	300.00
Renewal (per year)	100.00
Duplicate license	15.00
Replacement certificate	25.00
Engineer partnership:	
Certification of authorization	300.00
Renewal (per year)	100.00
Replacement certificate	25.00
Duplicate license	15.00

[Statutory Authority: RCW 43.24.086, 18.43.050, [18.43.]060, [18.43.]080, [18.43.]100, [18.43.]110, [18.43.]130 and 1995 c 356. 95-23-013, § 196-26-020, filed 11/7/95, effective 1/1/96. Statutory Authority: RCW 43.24.086 and 43.24.140. 93-10-057, § 196-26-020, filed 4/30/93, effective 7/1/93; 91-22-017, § 196-26-020, filed 10/28/91, effective 11/28/91; 91-10-046, § 196-26-020, filed 4/25/91, effective 5/26/91. Statutory Authority: RCW 43.24.086 and 43.24.140. 91-10-046, § 196-26-020, filed 4/25/91, effective 5/26/91. Statutory Authority: RCW 43.24.086 and chapter 18.43 RCW. 90-03-028, § 196-26-020, filed 1/11/90, effective 2/11/90. Statutory Authority: RCW 43.24.086. 87-18-031 (Order PM 667), § 196-26-020, filed 8/27/87.]

Title 197 WAC ENVIRONMENTAL POLICY, COUNCIL ON

Chapters

197-11 SEPA rules.

Chapter 197-11 WAC SEPA RULES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

197-11-748	Environmentally sensitive area. [Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-748, filed 2/10/84, effective 4/4/84.] Repealed by 95-07-023 (Order 94-22), filed 3/6/95, effective 4/6/95. Statutory Authority: RCW 43.21C.110.
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WAC 197-11-210 SEPA/GMA integration. The purpose of WAC 197-11-210 through 197-11-235 is to:

(1) Authorize cities and counties to integrate the requirements of SEPA and the Growth Management Act (GMA) to ensure that environmental analyses under SEPA can occur concurrently with and as an integral part of the planning and decision making under GMA. Nothing in these sections is intended to jeopardize the adequacy or require the revision of any SEPA or GMA processes, analyses or document deadlines specified in GMA.

(2) Cities and counties may use the procedures of these rules to satisfy the requirements of SEPA for GMA actions. Other jurisdictions planning under GMA may also use these integration procedures.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-210, filed 3/6/95, effective 4/6/95.]

WAC 197-11-220 SEPA/GMA definitions. For purposes of SEPA:

- (1) "Formal SEPA documents" mean:
 - (a) A nonproject environmental checklist/DNS;
 - (b) A notice of adoption with or without an addendum;
 - (c) An addendum;
 - (d) An EIS; or
 - (e) An integrated GMA document.
- (2) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(3) "Proposed GMA action" means a proposal for a GMA action that has been issued for public and interagency comment. It does not include drafts, preliminary drafts, or other materials or processes that have been used to develop GMA documents or elements of GMA documents. Such drafts are not considered a "proposal" as defined in WAC 197-11-784.

(4) "GMA action" means policies, plans and regulations adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include preliminary determinations on the scope and content of GMA actions, appeals of GMA actions, actions by the governor or by the growth management hearings boards.

(5) "Integrated GMA document" means a GMA document which contains or combines environmental analysis under SEPA.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-220, filed 3/6/95, effective 4/6/95.]

WAC 197-11-228 Overall SEPA/GMA integration procedures. (1) "Joint process." GMA jurisdictions are authorized to combine SEPA and GMA processes and analyses and to issue combined documents.

(2) "Phasing and level of detail." To integrate SEPA and GMA:

(a) The appropriate scope and level of detail of environmental review should be tailored to the GMA action being developed or considered for adoption.

(b) Jurisdictions may modify SEPA phased review as necessary to track the phasing of GMA actions, as provided in GMA and the procedural criteria in chapter 365-195 WAC. (For example, actions of narrower scope, such as interim urban growth boundaries or interim development regulations, subarea plans, and plan elements may be adopted prior to GMA actions of broader scope, such as an overall comprehensive plan revision.)

(c) The process of integrating SEPA and GMA should begin at the early stages of plan development. One purpose of an integrated GMA document (see WAC 197-11-235) is to ensure that studies conducted early in the planning and environmental analysis process are available and useful throughout the planning and analysis process (see WAC 197-11-230(2) and 197-11-235). Although early planning documents and environmental analyses such as documents on concepts or plan elements, may serve specific purposes and are not each required to be comprehensive in scope, they should explain their relationship to the overall GMA/SEPA process that is underway and identify how cumulative impacts are being considered.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-228, filed 3/6/95, effective 4/6/95.]

WAC 197-11-230 Timing of an integrated GMA/SEPA process. (1) A formal SEPA document (which may be a draft integrated GMA document under WAC 197-11-235):

(a) Shall be prepared and issued no later than the time that a proposed GMA action is issued for public and interagency review. For comprehensive plans and development regulations, the date of issue shall be at least sixty days prior to final adoption under RCW 36.70A.106;

(b) Shall be provided:

(i) To the legislative body that will consider issuing a GMA action; and

(ii) To any advisory body designated by the local legislative body or chief executive of the city or county to make a formal recommendation to the local legislative body on whether to propose a GMA action. The draft document shall also be circulated as otherwise required by WAC 197-11-455 or 197-11-340 as appropriate.

(2) The responsible official shall make a SEPA threshold determination:

(a) At any time, as long as it is early enough in the process so that the appropriate environmental document can accompany or be combined with a proposed GMA action;

(b) As soon as it can be determined under WAC 197-11-330 that a significant adverse environmental impact is likely to result from the implementation of the GMA action being developed.

(3) A threshold determination is not required when there has been a previous threshold determination or a notice of adoption or an addendum is prepared, except when a new threshold determination is required pursuant to WAC 197-11-600(3).

(4) If a formal SEPA document is issued concurrently with a proposed GMA action which has a public comment period, the public comment period on the formal SEPA document shall be the same as the comment period on the GMA action, provided the comment period is not less than otherwise required of a SEPA document. (See WAC 197-11-340 (2)(c) and 197-11-455(6)).

(5) When a draft integration GMA document includes a draft EIS, the final EIS and the adoption of the GMA document may occur together, notwithstanding the requirements of WAC 197-11-460(5).

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-230, filed 3/6/95, effective 4/6/95.]

WAC 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping. (1) "Preliminary environmental analyses." GMA jurisdictions may prepare environmental analyses for use by decision makers and the public to assist in developing and reviewing preliminary drafts of GMA documents. Environmental analyses prepared for use in such preliminary GMA planning:

(a) Do not require a threshold determination;

(b) May be separate from, or woven into, issue papers or other agency planning materials or presentations;

(c) May use the format of SEPA documents, including a nonproject environmental checklist (Part D of WAC 197-11-960) or addendum (WAC 197-11-706, 197-11-625).

(d) May include evaluation of issues and concerns that are not required in SEPA documents, such as economic or other factors identified in GMA, SEPA, and WAC 197-11-448.

(2) "Expanded scoping."

(a) Timing and use. Expanded scoping may be used prior to a threshold determination to meet one or more of the purposes stated in WAC 197-11-030, 197-11-225, 197-11-230, 197-11-235 and 197-11-410(2). Expanded scoping may initiate or be combined with any early GMA planning activities such as "visioning," development of alternative concepts or elements, or scoping of possible GMA actions. Scoping under WAC 197-11-408 may also be used for these purposes if a determination of significance has been issued.

(b) Notice. An expanded scoping notice may be issued separately from or without a threshold determination. If so the notice should explain that SEPA determinations and documents will occur later and that scoping is starting early to assist and involve the public, tribes and agencies in formulating a specific proposed GMA action and identifying useful environmental analyses.

(c) If expanded scoping is used as provided in this section, additional scoping will be optional if a determination of significance is subsequently issued.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-232, filed 3/6/95, effective 4/6/95.]

WAC 197-11-235 Documents. (1) "Integrating documents." Formal SEPA documents may be prepared as companion documents to accompany proposed GMA actions or may be integrated into the documentation of GMA actions. This section clarifies how WAC 197-11-640 (all SEPA documents) and WAC 197-11-425 through 197-11-442 (EISs) apply to integrated SEPA/GMA documents. The overriding consideration is the quality of information and analysis at the appropriate scope and level of detail for the particular GMA document, and not the format, length or bulk of the document.

(2) "Document format."

(a) There is no standard format for an integrated GMA document. For example an integrated comprehensive plan may look more like a plan preceded by an environmental summary (see WAC 197-11-235(5)), in contrast to a format described in WAC 197-11-430. Any separately bound supporting documents shall be clearly identified in the integrated document.

(b) An integrated GMA document is not required to contain a separate section on affected environment, significant impacts, and mitigation measures under WAC 197-11-440(6), as long as this information is summarized as required by this section, and the basis for this information can be readily found in the document and the supporting record.

(3) "Integrated non-EIS documents."

(a) If a proposed GMA action is not likely to have a significant adverse environmental impact, an integrated GMA document shall be prepared that combines the formal SEPA document (such as an environmental checklist/DNS, a notice of adoption or addendum) with the GMA document. The provisions of WAC 197-11-235 (1) and (2) apply to these integrated documents.

(b) If an environmental checklist is used and a DNS issued, only Parts A (which serves as a fact sheet), C (responsible official's signature), and D (nonproject checklist) need be prepared, plus an environmental summary as specified in WAC 197-11-235(5). Part D and the summary may be combined.

(c) If an addendum is to accompany or be incorporated into an integrated GMA document, it shall contain the information specified in WAC 197-11-235(5) for an environmental summary.

(4) "Plan/EIS documents." Because these documents need to contain sufficient environmental analysis for GMA actions, the same documents that meet GMA planning needs should constitute the SEPA documents for GMA actions and should provide a basis for future decisions on projects. An integrated document will constitute the necessary formal SEPA document, if accompanied by the following (as further specified by subsections (5) through (7) of this section):

- (a) Environmental summary and fact sheet;
- (b) Concise analysis of alternatives;
- (c) Comments and responses; and
- (d) Appropriate technical and other materials.

(5) "Environmental summary and fact sheet."

(a) The environmental summary includes the contents required in WAC 197-11-440(4). It should emphasize the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made and the effectiveness of mitigation measures. The summary is not to be a summary of the GMA action.

(b) The summary should highlight from an environmental perspective the main options that would be preserved or foreclosed by the proposed GMA action. It should reflect SEPA's substantive policies and focus on any significant irreversible or irretrievable commitments of natural resources that would be likely to harm long-term environmental productivity, taking into account cumulative impacts. A summary of the principal environmental impacts may be presented in chart or matrix form, summarizing the relevant elements of the environment and impact assessment required by WAC 197-11-440 (6)(b) through (e). The summary may discuss nonenvironmental factors and should do so if relevant to resolving issues concerning the main environmental choices facing decision makers.

(c) The summary should be no longer than necessary (generally fifteen to thirty pages for a plan/EIS, less for other integrated documents) and include tables or graphics to assist readability.

(d) At a minimum the fact sheet shall contain the information required in WAC 197-11-440(2). The fact sheet shall precede the summary in the integrated GMA document.

(6) "Concise analysis of alternatives."

(a) This analysis focuses on a comparative evaluation of the environmental consequences of the principal alternative courses of action that are or have been under consideration in the GMA planning process, as provided by WAC 197-11-440(5). The alternatives analysis shall evaluate the proposed GMA action compared to the principal alternative concepts and plan elements or regulatory options that were considered. This analysis allows decision makers, other agencies and the public to determine if the proposed GMA action can or should be revised before adoption to avoid or reduce environmental or other impacts. These alternatives may be:

- (i) Those which are actively being considered; or
- (ii) Those considered and screened earlier as part of a public GMA planning process.

(b) Descriptive material on the features of the alternatives (in contrast to comparing their impacts) should be kept to the minimum necessary to understand the comparative evaluation. If more description is necessary, it should be cited or located in the supporting record. Depending on the scope of the GMA action, the text of the alternatives analysis should be less than forty pages.

(7) "Comments and responses." The inclusion of comments and responses is not required for a draft integrated GMA document. For a final integrated document, comments (or a summary of comments) shall be compiled and response prepared as provided in WAC 197-11-560(3). A jurisdiction may include comments (or a summary of comments) received during the scoping process or on preliminary documents, as well as general or specific responses to these comments if any have been prepared, with the integrated GMA document on a proposed GMA action. If this ap-

proach is not used, these preliminary comments shall be included in the supporting record.

(8) "Supporting record, analyses, and materials."

(a) The integrated GMA document shall contain a list of the principal analytical documents and other materials (such as meeting minutes, maps, models, tapes or videos) that have been prepared, received, or used in developing the GMA action (see WAC 197-11-090). These materials shall be considered to be incorporated by reference under SEPA and part of the supporting record for SEPA compliance, and their contents need not be further described as required in WAC 197-11-635. Annotated lists are encouraged, but not required, to assist current and future reviewers.

(b) Materials in the supporting record should enable agencies and members of the public to identify and review the planning basis for the conclusions and analysis presented in the integrated GMA document as provided in the "procedural criteria" for preparing plan documents.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-235, filed 3/6/95, effective 4/6/95.]

WAC 197-11-250 SEPA/Model Toxics Control Act integration. (1) WAC 197-11-253 through 197-11-268 integrate the procedural requirements and documents of this chapter with those required under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, and chapter 173-340 WAC.

(2) Both MTCA and SEPA provide opportunities for early public review of a proposal. The following sections contain procedures to combine the MTCA and SEPA processes to reduce duplication and improve public participation. These sections supplement the other requirements of this chapter. To the extent there is a conflict, these sections supersede any conflicting provisions of this chapter.

(3) WAC 197-11-253 through 197-11-268 apply to remedial actions as defined in RCW 70.105D.020(12) and conducted by ecology or by a potentially liable person (PLP) under an order, agreed order, or consent decree under MTCA. These sections do not apply to independent remedial actions; rather, the remainder of this chapter applies to independent remedial actions that are subject to SEPA.

(4) When the remedial action is part of a development proposal, the procedures in WAC 197-11-256 through 197-11-268 shall be used to combine the procedural requirements of SEPA and MTCA, to the extent practicable.

(5) To effectively integrate the procedural requirements of SEPA and MTCA, the SEPA elements of the environment that could be impacted need to be identified as early in the MTCA process as possible. Early consideration of SEPA facilitates identification of study areas prior to conducting the remedial investigation/ feasibility study (RI/FS) and effective, timely integration of SEPA and MTCA documents. The threshold determination may be delayed until later in the MTCA process.

(6) WAC 197-11-256 through 197-11-268 do not change the categorical exemption for information collection in WAC 197-11-800(18) or the emergency exemption in WAC 197-11-880.

(7) Interim actions (WAC 173-340-430) conducted as part of a remedial action conducted by ecology, or by a potentially liable person under an order, agreed order, or

consent decree under MTCA are governed by WAC 197-11-268.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-250, filed 3/31/95, effective 5/1/95.]

WAC 197-11-253 SEPA lead agency for MTCA actions. (1) The lead agency should be determined as soon as possible after ecology has identified the PLPs for a facility and must be identified prior to issuing an order, agreed order, or consent decree, or prior to issuing the scope of work for an ecology conducted remedial action.

(2) Ecology will be lead agency for any remedial action conducted by ecology, or by a PLP under an order, agreed order, or consent decree, except for the situations described in subsections (3) and (4) of this section.

(3) Except as provided in subsection (4) of this section, an agency that will be conducting a remedial action under a MTCA order, agreed order, or consent decree will be lead agency provided there is no objection by another agency determined by ecology to be a PLP for the facility.

(a) If there are multiple agency PLPs, the agencies shall by agreement determine which agency will be lead agency. If the agencies cannot reach agreement, the agency that owns the largest acreage within the facility shall be lead agency. In any other instance where the agencies cannot agree, ecology will be lead agency.

(b) Prior to making a threshold determination, the lead agency may:

- (i) Transfer lead agency status to ecology;
- (ii) Invite ecology to share lead agency status; or
- (iii) Retain lead agency status.

(4) When a remedial action is part of a development proposal, the lead agency will be determined using the lead agency criteria in WAC 197-11-922 through 197-11-946. The lead agency may contact ecology prior to making a threshold determination to invite ecology to share lead agency status for that portion of the environmental analysis related to the remedial action (WAC 197-11-944).

(5) If an agency other than ecology is lead agency, the lead agency shall provide ecology an opportunity to review the environmental documents prior to providing public notice of the documents. Any environmental documents must address the remedial action which ecology anticipates will be necessary for the facility.

(6) When an agency other than ecology is lead agency, and the SEPA and MTCA documents are issued together with one public comment period, ecology and the lead agency will by agreement decide who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-253, filed 3/31/95, effective 5/1/95.]

WAC 197-11-256 Preliminary evaluation. (1) Prior to conducting a RI/FS under MTCA (WAC 173-340-350), the lead agency shall evaluate the available information on the hazardous substances at the facility and take one of the following steps:

(a) Make a preliminary decision that the remedial action is unlikely to have a probable significant adverse environmental impact and proceed according to WAC 197-11-259.

(b) Decide that all or part of the remedial action or its impacts are not sufficiently definite to make a preliminary determination and proceed with early scoping prior to making a threshold determination, following the procedures in WAC 197-11-265.

(c) Decide the remedial action will have a probable significant adverse environmental impact and issue a determination of significance following the procedures in WAC 197-11-262.

(2) The threshold determination shall be made at the point at which adequate information is available to evaluate the environmental impacts of the remedial action, but no later than the draft cleanup action plan.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-256, filed 3/31/95, effective 5/1/95.]

WAC 197-11-259 Determination of nonsignificance for MTCA remedial action. (1) If the remedial action will not have a probable significant adverse environmental impact, a DNS shall be issued no earlier than the RI/FS and no later than the draft cleanup action plan. If the lead agency made a preliminary decision under WAC 197-11-256 (1)(a) that a DS was unlikely, prior to issuing a DNS the responsible official shall consider any additional information about adverse environmental impacts generated during the RI/FS process.

(2) The public comment period on the DNS shall be the same as the comment period on the MTCA document, provided that for proposals listed in WAC 197-11-340 (2)(a) the comment period is no less than fifteen days prior to the effective date of the MTCA document. One public notice shall be used to announce the availability of both the DNS and MTCA document, consistent with the requirements of WAC 173-340-600 and 197-11-340.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-259, filed 3/31/95, effective 5/1/95.]

WAC 197-11-262 Determination of significance and EIS for MTCA remedial actions. (1) The following applies to remedial actions that will have a probable significant adverse environmental impact.

(2) If the preliminary evaluation in WAC 197-11-256 results in a determination of significance, the scoping notice may be combined with either the MTCA public review process for the scope of work for an ecology conducted RI/FS (WAC 173-340-600 (12)(a)), or with the public review process for the order, consent decree or agreed order covering an RI/FS.

(3) If a determination of significance is issued later in the MTCA process and early scoping has been done under WAC 197-11-265, no additional SEPA scoping is required. If early scoping has not been done, scoping shall be completed consistent with WAC 197-11-408 or 197-11-410.

(4) The EIS may be integrated with the RI/FS. The format of the document shall be flexible as allowed by WAC 197-11-640, provided:

(a) The fact sheet shall be the first section (WAC 197-11-430(1));

(b) A summary shall be included which meets the requirements in WAC 197-11-440(4); and

(c) Reasonable alternatives as defined in WAC 197-11-786 and 197-11-440(5) (including the no action alternative), significant adverse impacts, mitigation measures and any unavoidable impacts are clearly identified.

(5) If the EIS and RI/FS are not combined, the EIS requirements of WAC 197-11-430 shall apply.

(6) The draft EIS shall be issued no sooner than the issuance of the RI/FS and not later than issuance of the draft cleanup action plan. The final EIS shall be issued no sooner than the issuance of the draft cleanup action plan and no later than the final cleanup action plan, notwithstanding the requirements of WAC 197-11-460(5).

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-262, filed 3/31/95, effective 5/1/95.]

WAC 197-11-265 Early scoping for MTCA remedial actions. (1) The purpose of early scoping is to identify possible environmental issues prior to making a threshold determination. If early scoping is used and a determination of significance is issued later in the process, no additional SEPA scoping is required.

(2) If, after the preliminary evaluation provided in WAC 197-11-256, the lead agency decides there is insufficient information to make a preliminary determination, pursuant to WAC 197-11-256 (1)(b), the lead agency shall invite the public to comment on the proposed study areas. This early scoping will typically be combined with either the MTCA public review process for the scope of work for an ecology conducted RI/FS (WAC 173-340-600 (12)(a)), or the public review process for the order, consent decree, or agreed order for a RI/FS.

(3) The lead agency shall evaluate the comments received during the early scoping process and take one of the following actions:

(a) Determine the project will have a probable significant adverse environmental impact, issue a determination of significance and begin preparation of the EIS pursuant to WAC 197-11-262.

(b) Make a preliminary decision that there will be no probable significant adverse environmental impacts, and proceed as described in WAC 197-11-259.

(c) Determine there is still insufficient information to evaluate the environmental impacts of the remedial action, and proceed with the RI/FS. A threshold determination shall be made pursuant to WAC 197-11-259 or 197-11-262 as appropriate.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-265, filed 3/31/95, effective 5/1/95.]

WAC 197-11-268 MTCA interim actions. The following shall apply when an interim action (WAC 173-340-430) is conducted as part of a remedial action conducted by ecology, or by a potentially liable person under an order, agreed order, or consent decree under MTCA.

(1) If the interim action will not have a probable significant adverse environmental impact, the lead agency shall issue a DNS which may be combined with the public notice of the interim action, provided that for proposals listed in WAC 197-11-340 (2)(a) the comment period is no less than fifteen days prior to the effective date of the MTCA document.

(2) If the interim action will have a probable significant adverse environmental impact, the lead agency shall issue a determination of significance. If early scoping has already been performed for the facility under WAC 197-11-265, no additional scoping is required. If early scoping has not been performed, the lead agency shall issue a DS and scoping notice, allowing at least a twenty-one day advance comment period (WAC 197-11-408).

(3) The final EIS shall be issued no later than the issuance of the interim action report or the issuance of an order, agreed order, or decree.

[Statutory Authority: RCW 43.21C.110. 95-08-041 (Order 94-22), § 197-11-268, filed 3/31/95, effective 5/1/95.]

WAC 197-11-305 Categorical exemptions. (1) If a proposal fits within any of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (WAC 197-11-720) *except* as follows:

(a) The proposal is not exempt under WAC 197-11-908, critical areas.

(b) The proposal is a segment of a proposal that includes:

(i) A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not; or

(ii) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the department of ecology to resolve disputes (WAC 197-11-946).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of WAC 197-11-070 are met.

(2) An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-305, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-305, filed 2/10/84, effective 4/4/84.]

WAC 197-11-340 Determination of nonsignificance (DNS). (1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

(2) When a DNS is issued for any of the proposals listed in (2)(a), the requirements in this subsection shall be met.

(a) An agency shall not act upon a proposal for fifteen days after the date of issuance of a DNS if the proposal involves:

(i) Another agency with jurisdiction;

(ii) Demolition of any structure or facility not exempted by WAC 197-11-800 (2)(f) or 197-11-880;

(iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules;

(iv) A DNS under WAC 197-11-350 (2), (3) or 197-11-360(4); or

(v) A GMA action.

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under WAC 197-11-510.

(c) Any person, affected tribe, or agency may submit comments to the lead agency within fifteen days of the date of issuance of the DNS.

(d) The date of issue for the DNS is the date the DNS is sent to the department of ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this fifteen-day period (WAC 197-11-948).

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

(3)(a) The lead agency shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

(b) Subsection (3)(a)(ii) shall not apply when a nonexempt license has been issued on a private project.

(c) If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also WAC 197-11-070).

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-340, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-340, filed 2/10/84, effective 4/4/84.]

WAC 197-11-680 Appeals. (1) **Introduction.** Appeals provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080. These rules attempt to construe and interpret the statutory provisions. In the event a court determines that these rules are inconsistent with statutory

provisions, or with the framework and policy of SEPA, the statute will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory sections cited above.

(2) **Appeal to local legislative body.** RCW 43.21C.060 allows an appeal to a local legislative body of any decision by a local nonelected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal, or may eliminate such appeals altogether, by rule, ordinance or resolution.

(3) **Agency administrative appeal procedures.**

(a) Agencies may provide for an administrative appeal of determinations relating to SEPA in their agency SEPA procedures. If so, the procedures must comply with the following:

(i) The agency must specify by rule, ordinance, or resolution that the appeals procedure is available.

(ii) Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(iii) Appeals on SEPA procedures shall be limited to review of a final threshold determination and final EIS. The appeal of a final threshold determination may occur prior to an agency's final decision on a proposed action.

(iv) An agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed. This limitation does not apply to appeals to a local legislative body under RCW 43.21C.060 (or another state statute) or to administrative appeals before another agency.

(v) If the agency has made a decision on a proposed action, the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed in agency procedures.

(vi) Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(b) Agencies providing for administrative appeals shall provide for a record as required by RCW 43.21C.075 (3)(c).

(c) If an agency provides an administrative appeal procedure, that procedure must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under the agency procedures.

(4) **Judicial appeals.**

(a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit, but allows for the SEPA and non-SEPA portions of that lawsuit to be filed at different times.

(c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action,

then appeals (or portions thereof) raising SEPA issues must be filed within thirty days after the agency gives official notice (see subsection (5) of this section for content of official notice).

(d) In any instance where subsection (c) of this subsection allows the SEPA portion of an appeal to be filed after the time limit established by statute or ordinance for appealing the underlying governmental action, some judicial action must be filed within the time set by statute or ordinance. That action may be later amended to raise SEPA issues within thirty days after the agency gives official notice (see subsection (5) of this section). In addition, where SEPA issues were first raised during an administrative appeal, any person desiring to raise SEPA issues by judicial appeal must submit a notice of intent to do so with the responsible official of the acting agency within the time limit set by statute or ordinance for appealing the underlying governmental action.

(e) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be within thirty days after the agency gives official notice (see subsection (5) of this section). If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

(f) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen days, then the notice of action in RCW 43.21C.080(1) may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.

(g) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

(h) For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in chapter 4.16 RCW.

(5) **Official notice of the date and place for commencing an appeal.**

(a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:

(i) The time limit for commencing appeal of the underlying governmental action and the statute or ordinance establishing the time limit; and

(ii) The time for appealing SEPA issues (thirty days after notice); and

(iii) A statement that a notice of intent is required, if a notice is required under subsection (4)(d) of this section, and

instructions on where to send the notice and by what date; and

(iv) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subparagraph shall not be given prior to final agency action.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-680, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-680, filed 2/10/84, effective 4/4/84.]

WAC 197-11-748 Repealed. See Disposition Table at beginning of this chapter.

WAC 197-11-890 Petitioning DOE to change exemptions. (1) Except for the preceding section, agencies may create additional exemptions in their procedures only after receiving approval from the department of ecology under this section.

(2) An agency may petition the department to adopt additional exemptions or to delete existing exemptions by amending these rules. The petition shall be made under RCW 34.05.330. The petition shall state the language of the requested amendment, the petitioning agency's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the petitioning agency over a particular period of time. The department shall consider and decide upon a petition within sixty days of receipt. If the determination is favorable, the department shall begin rule making under chapter 34.05 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. Affected agencies shall amend their procedures accordingly.

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

(4) The department will provide public notice of any proposed amendments to these rules in the manner required by the Administrative Procedure Act, chapter 34.05 RCW. A copy of all approvals by the department under the preceding subsection shall be given to any person requesting the department for advance notice of rule making.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-890, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-890, filed 2/10/84, effective 4/4/84.]

WAC 197-11-904 Agency SEPA procedures. (1) Each agency is required by the act and this section to adopt its own rules and procedures for implementing SEPA. (RCW 43.21C.120.) Agencies may revise or add to their SEPA procedures at any time. Agencies may adopt these rules (chapter 197-11 WAC) by reference, and shall meet the requirements of WAC 197-11-906 concerning the content of their procedures. State and local rules for carrying out SEPA procedures are called "agency SEPA procedures."

(2) State agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of an agency, whichever shall occur later. State agencies shall adopt their procedures by rule making under the state Administrative Procedure Act, chapter 34.05 RCW. If a state agency does not have rule making authority under chapter 34.05 RCW, the agency shall adopt procedures under whatever authority it has, and public notice and opportunity for public comment shall be provided. Adoption shall be deemed to have taken place at the time the transmittal of adopted rules is filed with the code reviser.

(3) Local agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of the local governmental entity, whichever shall occur later. Local agencies shall adopt their procedures by rule, ordinance, or resolution, whichever is appropriate, to ensure that the procedures have the full force and effect of law. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting its SEPA procedures.

(4) Any agency determining that all actions it is authorized to take are exempt under Part Nine of these rules may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under this chapter. Adoption of such a statement under the procedures in subsections (2) and (3) shall be deemed to be in compliance with the requirement that the agency adopt procedures under this chapter.

(5) The adoption of agency procedures is procedural and shall be categorically exempt under this chapter (WAC 197-11-800(20)).

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-904, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-904, filed 2/10/84, effective 4/4/84.]

WAC 197-11-908 Critical areas. (1) Each county/city may select certain categorical exemptions that do not apply in one or more critical areas designated in a critical areas ordinance adopted under GMA (RCW 36.70A.060). The selection of exemptions that will not apply may be made from the following subsections of WAC 197-11-800: (1), (2)(a) through (h), (3), (5), (6)(a), (14)(c), (24)(a) through (g), and (25)(d), (f), (h), (i).

The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA

planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

All other categorical exemptions apply whether or not the proposal will be located within a critical area. Exemptions selected by an agency under this section shall be listed in the agency's SEPA procedures (WAC 197-11-906).

(2) Proposals that will be located within critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. 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 a critical area.

[Statutory Authority: RCW 43.21C.110, 95-07-023 (Order 94-22), § 197-11-908, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-908, filed 2/10/84, effective 4/4/84.]

WAC 197-11-938 Lead agencies for specific proposals. Notwithstanding the lead agency designation criteria contained in WAC 197-11-926 through 197-11-936, 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); however, for any public project requiring such certification and for which the study under 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 use of geothermal resources under 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 under chapter 78.52 RCW, the lead agency shall be the department of natural resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be either the department of natural resources or the city/county where the project is located, as set forth below:

(a) The interagency agreements authorized by WAC 222-50-030 between the department of natural resources and other governmental agencies may be used to identify SEPA lead agency status for forest practice applications. If used, this agreement shall meet the requirements for a lead agency agreement in WAC 197-11-942.

(b) If no interagency agreement exists, the SEPA lead agency determination shall be based on information in the environmental checklist required as part of the forest practice application requiring SEPA review. The applicant shall, as part of the checklist, submit all information on future plans for conversion, and shall identify any known future license requirements.

(c) For any proposal involving forest practices (i) on lands platted after January 1, 1960, (ii) on lands being converted to another use, or (iii) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be

reforested because of the likelihood of future conversion to urban development, the applicable county or city is the lead agency if the county or city will require a license for the proposal. Upon receipt of a forest practice application and environmental checklist, natural resources shall determine lead agency for the proposal. If insufficient information is available to identify necessary permits, natural resources shall ask the applicant for additional information. If a permit is not required from the city/county, natural resources shall be lead agency. If a city/county permit is required, natural resources shall send copies of the environmental checklist and forest practice application together with the determination of the lead agency to the city/county.

(d) Upon receipt and review of the environmental checklist and forest practice application, the city/county shall within ten business days:

(i) Agree that a city/county license is required, either now or at a future point, and proceed with environmental review as lead agency.

(ii) Determine that a license is not required from the city/county, and notify natural resources that the city/county is not lead agency; or

(iii) Determine there is insufficient information in the environmental checklist to identify the need for a license, and either:

(A) Assume lead agency status and conduct appropriate environmental analysis for the total proposal;

(B) Request additional information from the applicant; or

(C) Notify natural resources of the specific additional information needed to determine permit requirements, who shall request the information from the applicant.

(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; however, 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 under the standards of these rules.

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

(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 proposed metal mining and milling operations regulated by chapter 78.56 RCW, except for uranium and thorium operations regulated under Title 70 RCW, the lead agency shall be the department of ecology.

(13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services.

[Statutory Authority: RCW 43.21C.110. 95-07-023 (Order 94-22), § 197-11-938, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-938, filed 2/10/84, effective 4/4/84.]

Title 204 WAC EQUIPMENT, COMMISSION ON

Chapters

204-24 Traction devices.

204-41 Seat belt exemptions.

Chapter 204-24 WAC TRACTION DEVICES

WAC

204-24-050 Use of tire chains or other traction devices.

WAC 204-24-050 Use of tire chains or other traction devices. (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: *Provided*, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle shall be chained. For