

Title 400 WAC

PUGET SOUND WATER QUALITY ACTION TEAM

Chapters

- 400-04** Puget Sound water quality authority—
State Environmental Policy Act procedures.
- 400-06** Procedures—Operations—Communications—Public records.
- 400-12** Local planning and management of non-point source pollution.

- 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.

Chapter 400-04 WAC

**PUGET SOUND WATER QUALITY AUTHORITY—
STATE ENVIRONMENTAL POLICY ACT
PROCEDURES**

WAC

- 400-04-010 Authority.
- 400-04-020 Adoption by reference.
- 400-04-040 Additional definitions.
- 400-04-504 Availability of environmental documents.
- 400-04-510 Public notice.
- 400-04-680 Appeals.
- 400-04-902 Authority SEPA policies.
- 400-04-910 Designation of responsible official.
- 400-04-995 Severability.

WAC 400-04-010 Authority. The Puget Sound water quality authority adopts these procedures under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA rules, WAC 197-11-904.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-010, filed 2/3/86.]

WAC 400-04-020 Adoption by reference. The authority hereby adopts by reference the following sections of the 1984 SEPA rules, chapter 197-11 of the Washington Administrative Code.

PART ONE - PURPOSE/AUTHORITY

- 197-11-030 Policy.

PART TWO - GENERAL REQUIREMENTS

- 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.

PART THREE - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATION

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.

PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

- 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.

PART FIVE - COMMENTING

- 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.

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

- 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.

197-11-799 Underlying governmental action.

PART SEVEN - SEPA AND AGENCY DECISIONS

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

PART NINE - CATEGORICAL EXEMPTIONS

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

PART EIGHT - DEFINITIONS

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 Decisionmaker.
 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.

PART TEN - AGENCY COMPLIANCE

197-11-900 Purpose of this part.
 197-11-912 Procedures on consulted agencies.
 197-11-914 SEPA fees and costs.
 197-11-916 Application to ongoing actions.
 197-11-918 Lack of agency procedures.
 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.

PART ELEVEN - FORMS

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: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-020, filed 2/3/86.]

WAC 400-04-040 Additional definitions. (1) "Authority" shall mean the agency of the Puget Sound water quality authority consisting of the eleven-member authority and/or agency staff.

(2) "Chair" shall mean the chair of the authority as stated in RCW 90.70.011.

[Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-04-040, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-040, filed 2/3/86.]

WAC 400-04-504 Availability of environmental documents. There shall be established at the offices of the authority a file containing all official authority SEPA documents. Agencies and the public shall have access to this file.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-504, filed 2/3/86.]

WAC 400-04-510 Public notice. When these rules require notice to be given under this section, the authority shall inform the public and other agencies that an environmental document is being prepared or is available, and public hearing(s), if any, will be held by the following notice procedures:

(1) Publish notice in at least one newspaper of general circulation in each county, city, or general area in which the proposal is located or which the proposal affects;

(2) Notifying the news media via news releases, public service announcements and personal contact; and

(3) Sending notice to the official authority mailing list. The official authority list shall be kept on file and be available for inspection by the public. Individual members of the authority's advisory bodies shall receive notice.

(4) Any other of the notice procedures listed in WAC 197-11-510, as appropriate.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-510, filed 2/3/86.]

WAC 400-04-680 Appeals. There shall be no administrative appeals of authority SEPA determinations. Any person may informally request, either orally or in writing, the responsible official to reconsider a determination. The official shall reconsider the determination and provide a response, but as this is not a formal appeal as described by RCW 43.21C.075 and WAC 197-11-680, the official is not required to make a record or furnish reasons for the decision. Any informal request to reconsider an authority SEPA determination shall be made within thirty days of the determination.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-680, filed 2/3/86.]

WAC 400-04-902 Authority SEPA policies. The authority adopts by reference the state environmental policy as set forth in SEPA, RCW 43.21C.020. To carry out this policy, the authority will use all practicable means consistent with other essential considerations of state policy to improve and coordinate plans, functions, and resources, and to mitigate adverse impacts resulting from proposals to the end that the state and its citizens may:

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

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

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

(4) Preserve important historic, cultural, and natural aspects of our national heritage;

(2001 Ed.)

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

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

(7) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;

(8) Manage public waters and adjacent lands, fisheries, wetlands, and other natural resources wisely.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-902, filed 2/3/86.]

WAC 400-04-910 Designation of responsible official. The authority's chair, or the chair's designee, shall serve as responsible official.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-910, filed 2/3/86.]

WAC 400-04-995 Severability. If any provisions 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 person or circumstances, shall not be affected.

[Statutory Authority: RCW 43.21C.120. 86-04-054 (Order 86-01, Resolution No. 4), § 400-04-995, filed 2/3/86.]

Chapter 400-06 WAC PROCEDURES—OPERATIONS— COMMUNICATIONS—PUBLIC RECORDS

WAC

400-06-010	Purpose.
400-06-020	Definitions.
400-06-030	Authority operations and procedures.
400-06-050	Puget Sound water quality authority officers—Terms.
400-06-060	Puget Sound water quality authority—Regular meetings.
400-06-070	Puget Sound water quality authority—Description of organization.
400-06-090	Public records available.
400-06-100	Office hours.
400-06-110	Requests for public records.
400-06-120	Copying.
400-06-130	Exemptions.
400-06-140	Review of denials of public records request.
400-06-150	Protection of public records.
400-06-160	Records index.
400-06-170	Communications.
400-06-180	Request for public record—Form.

WAC 400-06-010 Purpose. The purpose of this chapter is to describe the authority, its procedures and operations, communications to ensure compliance by the authority with the provisions of chapter 42.17 RCW (Initiative 276), and in particular, to implement sections 25 through 32 of that act, dealing with public records.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-010, filed 2/3/86.]

WAC 400-06-020 Definitions. (1) The terms "person," "public record," and "writing" shall have the meaning as stated in RCW 42.17.020.

(2) "Authority" means the Puget Sound water quality authority.

(3) "Chair" means the chair of the authority as stated in RCW 90.70.011.

(4) "Public records officer" means the authority staff member so designated by the chair.

[Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-06-020, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-020, filed 2/3/86.]

WAC 400-06-030 Authority operations and procedures. (1) The authority was created by the enactment of chapter 451, Laws of 1985, chapter 90.70 RCW for the principal purpose of establishing a planning mechanism for improving and maintaining the water quality of Puget Sound. The legislation also provides for a public participation process for the development of the comprehensive water quality management plan for Puget Sound (plan), a biennial state of the Sound report, methods for staffing the authority and mechanisms to assure compliance with the plan.

(2) The duties, responsibilities and powers of the authority are set forth in chapter 90.70 RCW. Provisions for establishing the authority and the appointment of members are set forth in RCW 90.70.011.

(3) The authority meets at least monthly to consider and act upon major policy matters, planning decisions, and routine business of the authority. All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW) the Administrative Procedure Act (chapter 34.05 RCW) and *Robert's Rules of Parliamentary Procedure*. Any official action of the authority shall require the affirmative vote of a majority of the members present so long as there is a quorum present. A quorum shall consist of the majority of the number of members serving at that time. However, the adoption of the plan and any substantial revision to the plan shall require the affirmative vote of a majority of all members of the authority.

[Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-06-030, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-030, filed 2/3/86.]

WAC 400-06-050 Puget Sound water quality authority officers—Terms. The officers of the authority shall be the chair and the vice-chair. The vice-chair shall be elected by a majority vote of the members of the authority and shall serve for a term of one year. The chair and other members of the authority shall serve for terms as provided in RCW 90.70.011. The chair shall preside over the meetings. If the chair is not present, the vice-chair will serve as chair of the meeting. If neither the chair nor the vice-chair is present at a meeting, the members of the authority shall select a member to chair the meeting.

[Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-06-050, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-050, filed 2/3/86.]

[Title 400 WAC—p. 4]

WAC 400-06-060 Puget Sound water quality authority—Regular meetings. Regular meetings of the authority shall be held on the third Wednesday of each calendar month usually beginning at 9:30 a.m. and running until 3:30 p.m. The meetings shall be held at a place designated by the chair of the authority. Provided that, if the authority deems it necessary to meet more or less frequently, the authority shall give notice of those meetings as required by law.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-060, filed 2/3/86.]

WAC 400-06-070 Puget Sound water quality authority—Description of organization. RCW 90.70.011 provides that the authority shall be composed of eleven members. Nine of these members are appointed by the governor and confirmed by the senate. The commissioner of public lands and the director of ecology, or their designees, serve as ex-officio members. The administrative office of the authority and its staff is located on the campus of St. Martins College, Lacey, Washington. The mailing address is Mailstop PV-15, P.O. Box 40900, Olympia, Washington 98504-0900.

[Statutory Authority: Chapter 90.70 RCW. 91-20-076, § 400-06-070, filed 9/27/91, effective 10/28/91. Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-06-070, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-070, filed 2/3/86.]

WAC 400-06-090 Public records available. All public records of the agency, as defined in WAC 400-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-090, filed 2/3/86.]

WAC 400-06-100 Office hours. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 5 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-100, filed 2/3/86.]

WAC 400-06-110 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the authority which shall be available at its office. The form shall be presented to the public records officer; or to any member of the authority's staff, if the public records officer is not available, at the office of the agency during cus-

(2001 Ed.)

tomary office hours. The request shall include the following information:

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

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

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-110, filed 2/3/86.]

WAC 400-06-120 Copying. No fee shall be charged for the inspection of public records. The authority shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the authority's copy equipment. This charge is the amount necessary to reimburse the authority for its actual costs incident to such copying.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-120, filed 2/3/86.]

WAC 400-06-130 Exemptions. (1) The authority reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 400-06-110 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the authority reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-130, filed 2/3/86.]

WAC 400-06-140 Review of denials of public records request. (1) Any person who objects to the denial of a request for public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2001 Ed.)

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chair who shall consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the original denial.

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

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-140, filed 2/3/86.]

WAC 400-06-150 Protection of public records. (1) No person shall knowingly alter, deface, or destroy public records of the authority.

(2) Original copies of public records of the authority shall not be removed from the offices of the authority.

(3) Care and safekeeping of public records of the authority, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(5) Boisterous or otherwise disruptive conduct by those requesting public records of the authority shall not be permitted.

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-150, filed 2/3/86.]

WAC 400-06-160 Records index. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated on or after August 21, 1985, which are deemed by the authority to fall within the purview of RCW 42.17.260 and which are not exempted under the provisions of RCW 42.17.310.

(2) The current index promulgated by the authority shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. The records index shall be updated at least annually.

[Statutory Authority: Chapter 90.70 RCW and RCW 43.21C.120. 90-17-063, § 400-06-160, filed 8/15/90, effective 9/15/90. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-160, filed 2/3/86.]

WAC 400-06-170 Communications. All communications regarding the actions or decisions of the authority:

(1) Pertaining to the administration or enforcement of chapter 42.17 or these rules shall be addressed to the Public Records Officer, Puget Sound Water Quality Authority, Mailstop PV-15, P.O. Box 40900, Olympia, Washington 98504-0900; and

(2) Relating to the development of the plan shall be addressed to Director of Planning, Puget Sound Water Quality Authority, Mailstop PV-15, P.O. Box 40900, Olympia, Washington 98504-0900.

[Title 400 WAC—p. 5]

[Statutory Authority: Chapter 90.70 RCW. 91-20-076, § 400-06-170, filed 9/27/91, effective 10/28/91. Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-170, filed 2/3/86.]

WAC 400-06-180 Request for public record—Form.

STATE OF WASHINGTON
PUGET SOUND WATER QUALITY AUTHORITY
REQUEST FOR PUBLIC RECORD

Date of Request:
Requested By:
Public Records or Information Requested:
Requester Read and Sign:

I understand that I must abide by the rules and regulations published by the Puget Sound Water Quality Authority for the protection of public records, a copy of which I have read and understand.

I understand that I will be charged twenty-five cents per copy for all standard letter size copies I desire and that other size publications are available at cost.

Requester's Signature
Completed by Authority Public Records Officer:
Date of Receipt:
Number of Copies:
Amount Received: \$
Reason if Authority is Unable to Comply:

Public Records Officer Signature:
Public records of the agency are provided for inspection and copying subject to the following regulations:

- (1) No person shall knowingly alter, deface, or destroy public records of the authority.
(2) Original copies of public records of the agency shall not be removed from the offices of the authority.
(3) Care and safekeeping of public records of the authority, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.
(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
(5) Boisterous or otherwise disruptive conduct by those requesting public records of the authority shall not be permitted.

I have read, understand, and will comply with the above-stated regulations.

(Signature and date)

[Statutory Authority: RCW 42.17.250 through 42.17.320, 1985 c 451 and chapter 90.70 RCW. 86-04-055 (Order 86-02, Resolution No. 5), § 400-06-180, filed 2/3/86.]

Chapter 400-12 WAC
LOCAL PLANNING AND MANAGEMENT OF
NONPOINT SOURCE POLLUTION

WAC

PART ONE
AUTHORITY/PURPOSE

400-12-100 Authority.
400-12-110 Purpose.
400-12-120 Applicability.

PART TWO
GENERAL REQUIREMENTS

400-12-200 Definitions.
400-12-210 Overview.
400-12-220 Public involvement.

PART THREE
WATERSHED RANKING PROCESS

400-12-305 Initial watershed ranking.
400-12-320 Five-year review.

PART FOUR
PREPARATION FOR WATERSHED ACTION PLANNING

400-12-400 Lead agency for watershed planning.
400-12-410 Watershed management committees.
400-12-415 Planning and implementing entities.
400-12-420 Schedule for preparation and review of action plan.

PART FIVE
WATERSHED ACTION PLANNING PROCESS

400-12-500 Overview.
400-12-515 Phase 1—Watershed characterization and goals and objectives development.
400-12-525 Phase 2—Action plan nonpoint pollution control strategy.
400-12-535 Phase 3—Action plan implementation strategy.
400-12-545 Phase 4—Action plan review and approval.
400-12-555 SEPA review.
400-12-565 Revisions.

PART SIX
ACTION PLAN IMPLEMENTATION

400-12-605 Decision of department.
400-12-615 Responsibilities of implementing entities.
400-12-625 Lead agency responsibilities.
400-12-635 Department responsibilities.
400-12-645 County responsibilities.

PART SEVEN
PLAN COMPLIANCE

400-12-700 Default procedure.
400-12-710 Exceptions.
400-12-720 Severability.

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

400-12-300 Watershed ranking committees. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-300, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
400-12-310 Watershed ranking process and criteria. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-310, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
400-12-510 Phase 1—Action plan problem definition, and goals and objectives development. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-510, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
400-12-520 Phase 2—Action plan source control and implementation strategy. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-520, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.

- 400-12-530 Revisions. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-530, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-540 SEPA review. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-540, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-550 Action plan contents. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-550, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-560 Phase 3—Action plan review and approval. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-560, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-570 Action plan implementation. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-570, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-600 General provisions. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-600, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-610 Agricultural practices. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-610, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-620 On-site sewage disposal. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-620, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-630 Stormwater and erosion. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-630, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-640 Forest practices. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-640, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-650 Marinas and boats. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-650, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.
- 400-12-660 Other nonpoint sources. [Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-660, filed 3/2/88.] Repealed by 91-22-096, filed 11/6/91, effective 12/7/91. Statutory Authority: Chapter 90.70 RCW.

PART ONE AUTHORITY/PURPOSE

WAC 400-12-100 Authority. This chapter is promulgated by the Puget Sound water quality action team pursuant to chapter 138, Laws of 1996.

(1) It is the intent of this chapter that the department of ecology coordinate all aspects of this program, including interpreting this chapter for local entities, state agencies, tribes, and affected parties as they carry out their responsibilities under this chapter, and that the department shall consult with the action team as needed regarding the interpretation of this chapter.

(2) As required by RCW 90.71.070, the council shall review the progress of state agencies and local governments

(2001 Ed.)

regarding timely implementation of the work plan established pursuant to this chapter.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-100, filed 11/19/96, effective 12/20/96. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-100, filed 3/2/88.]

WAC 400-12-110 Purpose. This chapter establishes criteria and procedures for ranking watersheds and for developing and implementing action plans for watersheds in need of corrective and/or preventive actions. The purpose is to reduce pollutant loading from nonpoint sources, prevent new sources from being created, enhance water quality and protect beneficial uses.

This planning process encourages collaborative problem solving among a diversity of local, state, tribal, and federal interests, recognizing that political constituency-building is necessary for implementation.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-110, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-110, filed 3/2/88.]

WAC 400-12-120 Applicability. This chapter applies to the Puget Sound basin and does not apply outside of the Puget Sound basin.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-120, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-120, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-120, filed 3/2/88.]

PART TWO GENERAL REQUIREMENTS

WAC 400-12-200 Definitions. For the purposes of this chapter, the following definitions shall apply:

"Action plan" means a locally developed and department-approved plan which is implemented to prevent and control nonpoint pollution in a priority watershed or an early action watershed.

"Action team" means the Puget Sound water quality action team pursuant to RCW 90.71.020.

"Affected parties" means both those whose beneficial use of water is being impaired, or potentially impaired, by nonpoint pollution and those groups associated with the nonpoint sources of pollution identified in WAC 400-12-515(2).

"Beneficial uses" means uses identified by water quality standards for waters of the state of Washington (chapter 173-201 WAC) as desirable uses for given classes of waters. Examples are water supplies for domestic, industrial, or agricultural purposes; fish, shellfish, and wildlife habitat; recreation; and navigation.

"Best management practices" means agricultural, structural, and/or managerial practices that, when used singly or in combination as part of an approved site development plan or farm plan, provide minimum essential action or treatment needed to solve, prevent, or reduce site-specific water quality problems.

"Chair" means chair of the Puget Sound water quality action team.

"Council" means the Puget Sound council as established in RCW 90.71.030.

"Comprehensive land use plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to Title 35 RCW, Title 35A RCW, chapter 36.70, or 36.70A RCW.

"Consensus" means achievement of general agreement on an issue by the watershed management committee during the planning process.

"Department" means the Washington state department of ecology.

"Document review" means solicitation of comment from interested and affected parties on reports, proposals, or plans during various stages of development of action plans.

"Early action watersheds" means those watersheds selected by the department for development of action plans prior to promulgation of this chapter.

"Failed," "failing," or "failure" of an on-site sewage disposal system means failure as defined by chapter 70.118 RCW (On-site sewage disposal systems) and chapter 246-272 WAC (On-site sewage system).

"Farm" means a property where domestic animals are kept to provide primary or supplemental income, for personal consumption, or for recreational use, or where crops are grown for resale.

"Farm plan" also known as "farm water quality management plan" means a site-specific plan developed by a farm operator in cooperation with a resource agency (such as those developed under the "208" water quality management program with assistance of a conservation district or the soil conservation service) and approved by the conservation district board of supervisors, for managing resources to protect water quality.

"Federal agencies" means units of the federal government having major facilities or substantial land holdings in the watershed, such as the Departments of Defense, Interior, Agriculture, or Transportation.

"Ground water management areas" means areas designated and defined in chapter 173-100 WAC and administered by the department.

"Implementing entity" means a federal or state agency, Indian tribe, local government, organization, or special purpose district responsible for carrying out the day-to-day activities of the applicable provisions of an action plan once it is approved by the department and, where applicable, adopted by the legislative body of the entity.

"Lead agency" means any entity selected in accordance with WAC 400-12-400 with responsibility for coordinating the development and implementation of a watershed action plan. The lead agency must possess the financial and staff resources in order to fulfill its responsibilities under this chapter. The lead agency must be a governmental agency or division thereof with power to pass resolutions, enact ordinances, and appropriate funds for expenditure; an Indian tribe recognized as such by the federal government with territory or usual and accustomed fishing grounds within waters in or adjacent to the county; a conservation district; a metropolitan municipal corporation; or a council of governments.

"Local government" means the city or town council, board of county commissioners, county council, special purpose district commission, metropolitan municipal corpora-

tion, council of governments, or that body assigned legislative duties by a city, county, or district charter.

"Nonpoint pollution" means pollution, as defined by chapter 90.48 RCW, (Water pollution control) that enters any waters of the state within Puget Sound basin from any dispersed land-based or water-based activities or sources, including farm practices, storm water and erosion, on-site sewage disposal, forest practices, marinas and boats, atmospheric deposition, garbage, and other residential, commercial, and industrial sources.

"Nonpoint pollution control programs" or "nonpoint pollution control strategy" means programs using education, technical and financial assistance, regulation, incentives or disincentives, monitoring, and/or enforcement to control, prevent, and mitigate pollution from nonpoint sources.

"On-site sewage disposal system" means a septic tank and drainfield or alternative treatment and disposal system as defined in chapter 246-272 WAC (On-site sewage system).

"Pesticides" means those substances intended to control pests and unwanted plants as defined in chapter 15.58 RCW, the Washington Pesticide Control Act.

"Plan" means the 1994 Puget Sound water quality management plan, which has been approved as the comprehensive conservation management plan for Puget Sound, and subsequent revisions.

"Planning entity" means a governmental or nongovernmental body that prepares reports, makes recommendations, and participates in developing an action plan. An agency may serve both as a planning entity and implementing entity.

"Prevention" means application of laws, ordinances, administrative procedures, and/or land management practices or education and public involvement programs which reduce or eliminate the potential for nonpoint pollution.

"Priority" means highest or higher in importance or rank.

"Public hearing" means a formal public meeting to take testimony on a pending action.

"Public meeting" means an informal public proceeding, including a workshop, that informs the public and provides an opportunity for the public to ask questions and voice opinions.

"Public notification" means use of public information techniques to ensure that:

- Information on decisions to be made or actions to be taken is complete and understandable;
- A full explanation is provided on the effects of decisions or actions on the public, especially the effects on specific groups or geographic areas; and
- The ways in which the public may influence the decision-maker and appeal the decision are explained.

"Puget Sound" means all waters of Puget Sound south of the Admiralty Inlet including Hood Canal and Saratoga Passage; the waters north to the Canadian border, including portions of the Strait of Juan de Fuca south of the Canadian border; and all land draining into these waters as mapped by WAC 173-500-040, water resource inventory areas, number 1 through 19.

"Regional watershed" means a large geographic region draining into a major river or body of water as identified and numbered by the state of Washington water resource inventory areas as defined in chapter 173-500 WAC.

"Regulation" means laws, rules, or ordinances to establish legal standards or administrative procedures to control nonpoint pollution.

Section 313 of the Clean Water Act specifies that the federal government shall be subject to and comply with all federal, state, interstate and local requirements, administrative authority and process and sanctions respecting the control and abatement of water pollution.

Section 319 of the Clean Water Act requires states to assess and rank their waters for impacts to beneficial uses from nonpoint source pollution and to develop and implement management programs to address the ranked waters.

"Special purpose district" means a district established pursuant to statute or ordinance in a specific geographic area to carry out specific responsibilities which affect water quality. Examples are soil and water conservation districts, port districts or on-site sewage disposal system maintenance districts.

"Special surveys" means intensive assessments of land use and water quality designed to obtain information on specific sources or pollutants not available through routine water sampling.

"Statewide forest practices program" means chapter 76.09 RCW, the Washington state Forest Practices Act; forest practices regulations as adopted by the state forest practices board and the department of ecology; administration of the Forest Practices Act and regulations; and implementation of the Timber, Fish, and Wildlife Agreement.

"Subwatershed" means a geographic and hydrologic subunit of a watershed or regional watershed.

"Technical assistance" means service provided by state, tribal, or federal agencies to assist local entities in watershed ranking and/or action plan development and implementation.

"Timber, fish, and wildlife agreement" means a voluntary agreement which was drawn up by resource agencies, tribes, industry, and environmental groups to address forest practices on state and private lands within the state of Washington.

"208 water quality management plans" means nonpoint source control plans prepared in accordance with Section 208 of the Federal Clean Water Act.

"Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the state of Washington water resource inventory areas as defined in chapter 173-500 WAC, or as defined and delineated by a watershed ranking committee through the watershed ranking process.

"Watershed improvement projects" means those projects within ranked watersheds which are expected to enhance water and habitat quality and protect beneficial uses, and which are based upon an existing local watershed action plan or are identified as part of a proposed new watershed planning process.

"Watershed management committee" means a local committee formed to develop an action plan in accordance with criteria set forth in this chapter and in the plan.

"Watershed ranking committee" means a committee convened to identify and rank all of the watersheds within a county in accordance with criteria set forth in this chapter and as generally described in the plan.

"Watershed rating criteria for nonpoint sources of pollution" means criteria developed by the United States Department of Agriculture Puget Sound Cooperative River Basin Study team to rank watersheds.

"Water quality violation" means a violation of local, state, and/or federal water quality laws or regulations.

"Wetlands" means areas as determined in accordance with element W 4.1.1 of the plan.

"Work plan" means the biennial work plan prepared by the action team pursuant to RCW 90.71.050.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-200, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-200, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-200, filed 3/2/88.]

WAC 400-12-210 Overview. (1) This chapter establishes a process to review the ranking of watersheds in the Puget Sound basin and to develop and implement action plans to prevent nonpoint pollution, enhance water quality, and protect beneficial uses.

(2) Each county will convene a committee to review and/or rerank the watersheds wholly or partly within the county boundaries, using criteria set forth in this chapter. Local watershed management committees will be formed to develop action plans for the ranked watersheds. Lead agencies will submit completed action plans to the department for approval. Each action plan may be implemented, as coordinated by the lead agency, through voluntary actions, local ordinances, or a combination thereof; and/or local, state, and federal laws, regulations, and programs.

(3) Technical assistance from state agencies will be available to committees and implementing entities. Substantial involvement by both the general public and affected parties shall be sought in all phases of watershed ranking and action plan development. If action plans are ineffective, a revision process can be initiated by either local governments or the department according to procedures outlined in the watershed action planning process.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-210, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-210, filed 3/2/88.]

WAC 400-12-220 Public involvement. (1) In addition to the provisions of this chapter, public involvement shall be conducted in accordance with public involvement policies of the plan and with chapter 42.30 RCW, the Open Public Meetings Act.

(2) Except where otherwise specified in this chapter, meaningful and substantive participation by the general public and affected parties shall be provided as follows:

(a) All interested and affected local governments, special purpose districts, state and federal agencies, Indian tribes, the general public, and other interested parties shall be informed of progress in planning and implementation and educated and involved in decision-making through such activities as public meetings and hearings, watershed events, citizen workshops, open houses, and newsletters.

(b) The watershed ranking committee and the watershed management committee shall provide:

(i) Adequate opportunities for public comment both early in the watershed reranking and action planning process; and

(ii) Public notification sufficiently in advance of public meetings and public hearings to allow the general public and affected parties adequate time to consider the decision in question.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-220, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-220, filed 3/2/88.]

PART THREE WATERSHED RANKING PROCESS

WAC 400-12-305 Initial watershed ranking. Each of the twelve Puget Sound counties has completed the initial watershed ranking. The initial watershed ranking process required each county to convene a committee of representatives from cities, special purpose districts, tribal governments, and other appropriate entities. Information on the water quality, habitat, biological conditions, and land use of each watershed was gathered. The committees then ranked the watersheds in order of need for preventive and/or corrective actions. The committees considered such factors as beneficial uses, likelihood of intensified land use, environmental factors, such as soil, slope, or precipitation, and contamination problems. Each county submitted a report on their ranking process and final ranked list to the department by January 1989.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-305, filed 11/6/91, effective 12/7/91.]

WAC 400-12-320 Five-year review. (1) The county is assumed to be the lead agency for the watershed reranking process. The lead agency shall reconvene a watershed ranking committee at least every five years to evaluate the need to rerank based on the results of the implementation of action plans and/or new information. The lead agency must explain that conditions in its watersheds have not changed enough to warrant going through the reranking process. This review shall be conducted more frequently than every five years if a significant change occurs, such as intensified land use within the watershed, if there is an emergency situation which poses a hazard to public health or the health of an ecosystem within the watershed, or if a jurisdiction is ready to proceed with planning.

(2) Process.

(a) Watershed ranking committee. The lead agency shall invite representatives from interested and affected parties, including but not limited to, local government legislative authorities, special purpose districts, tribal governments, and the general public. In counties with numerous incorporated communities, committees shall include at least one representative from each population category of a city or town as identified in chapter 35.01 RCW (Municipal corporations classified).

(b) Information gathering. The lead agency shall provide any new information on water quality, habitat, biological conditions, and land use for all watersheds in the county, as

well as information on the results of action plan implementation.

(c) Review and reranking. Using this information, the watershed ranking committee shall evaluate the initial ranking based on criteria in plan element NP-1 or on alternative methods consistent with the plan upon approval from the department. The use of consensus in the reranking process is encouraged.

(d) Public involvement. The watershed ranking committee shall conduct its public involvement program in accordance with the provisions of WAC 400-12-220. In addition, the committee shall conduct at least one public hearing in the county on the proposed re-ranking.

(3) If changes are made to the previous watershed ranking, a description and a brief rationale shall be prepared and submitted to the department.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-320, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-320, filed 3/2/88.]

PART FOUR PREPARATION FOR WATERSHED ACTION PLANNING

WAC 400-12-400 Lead agency for watershed planning. (1) Designation.

(a) The county is assumed to be the lead agency for each watershed management committee. However, another entity may serve as the lead agency if it has geographic jurisdiction and/or responsibilities that wholly or mostly encompass the watershed and can demonstrate that it has the ability to perform the duties of a lead agency as per WAC 400-12-200(17), either directly or through a memorandum of agreement with the county. Additionally, the entity shall demonstrate coordination with the county. If the county does not act as the lead agency, it shall serve on the committee and shall participate in local review of the action plan as described in Part Five of this chapter.

(b) In multicounty watersheds, the counties may jointly convene the committee, provided there is demonstrated coordination, or may choose one entity to carry out lead agency responsibilities. In these situations there shall be a single public involvement process which ensures that interested and affected parties throughout the watershed are involved.

(c) Where a joint ground water and watershed management program is established, a city may be designated as the lead agency if both the ground water and watershed management plan areas are wholly or mostly within the city.

(2) Responsibilities. The lead agency shall be responsible for:

(a) Initiating the planning process and developing the work plan and schedule;

(b) Setting up the watershed management committee and convening additional advisory committees as necessary;

(c) Convening meetings and coordinating the activities necessary to develop the action plan;

(d) Coordinating the activities of the watershed management committee with other existing land and water planning and management programs (e.g., ground water, local comprehensive planning);

(e) Working with planning and implementing agencies throughout preparation of the action plan, including:

(i) Informing federal agencies with jurisdiction in the watershed of action plan requirements to ensure compliance with the Clean Water Act Section 313 and to assist federal agencies in the review of their activities pursuant to Section 319 of the Clean Water Act, 33 U.S.C. 1251 et seq., if applicable; and

(ii) Informing local and state agencies that either have jurisdiction over any property or facility, or are engaged in any activity resulting in nonpoint pollution in the watershed, of their role or responsibility in the implementation of the action plan;

(f) Coordinating the SEPA review;

(g) Performing other such duties as necessary to ensure the action planning process is carried out;

(h) Reviewing the action plan to determine whether it is consistent with the requirements of this chapter and reporting its findings to the committee; and

(i) Submitting the action plan on behalf of the watershed management committee to the department for approval.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-400, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-400, filed 3/2/88.]

WAC 400-12-410 Watershed management committees. (1) Membership. The watershed management committee shall include all entities that have a legitimate role in the development and implementation of a watershed action plan. This includes affected local and tribal governments, special purpose districts, affected parties, watershed residents, and appropriate state and federal agencies (if the watershed includes significant state or federal lands or if these agencies have regulatory roles within the watershed). Additional advisory committees may be established as necessary and agreed upon by the committee members. Membership on watershed management committees in multicounty watersheds shall include the same interests as those in single county watersheds.

(2) Responsibilities. In addition to the responsibilities identified in Parts Five, Six, and Seven of this chapter, the watershed management committee shall be responsible for:

(a) Approving rules for conducting meetings, decision-making and dispute resolution. Use of consensus in making decisions is encouraged;

(b) Reviewing and approving the work plan and schedule for the development of the action plan;

(c) Providing input to develop a strategy for public participation consistent with this chapter;

(d) Informing representative interests about the action planning process; and

(e) Developing and approving the watershed action plan.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-410, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-410, filed 3/2/88.]

WAC 400-12-415 Planning and implementing entities. Planning and implementing entities shall evaluate the applicability of the watershed action planning process to their jurisdiction and/or responsibilities early on and provide tech-

nical assistance and coordination as appropriate during the development of the plan. Planning and implementing entities shall also be responsible for reviewing the action plan. Each implementing entity shall be responsible for providing a statement of concurrence.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-415, filed 11/6/91, effective 12/7/91.]

WAC 400-12-420 Schedule for preparation and review of action plan. Draft action plans shall be prepared and presented to the department within eighteen months after the watershed management committee approves the schedule and work plan. The department may allow a planning process of up to twenty-four months at the request of the watershed management committee.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-420, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-420, filed 3/2/88.]

PART FIVE WATERSHED ACTION PLANNING PROCESS

WAC 400-12-500 Overview. (1) Nonpoint pollution comes from a large number of sources that vary in size and impact on water quality. Degradation of a waterbody results from the cumulative effect of pollutants from these sources. High risk and sensitive areas are particularly vulnerable to nonpoint pollution. The watershed action plan shall describe a coordinated program of effective actions to be implemented to prevent and abate nonpoint pollution within the watershed. This is to be accomplished through local watershed programs that define priority nonpoint pollution problems and identify appropriate means to maintain or improve water quality and protect beneficial uses.

(2) Action plans shall be developed in four phases:

(a) In phase 1, current conditions are assessed, risks and threats to beneficial uses are identified, priority problems are defined and goals and objectives are developed;

(b) In phase 2, the nonpoint pollution control strategy is prepared, consisting of a combination of voluntary, educational, and regulatory approaches to controlling the identified sources of the problem pollutants, and based on feasibility, likelihood of success and cost;

(c) In phase 3, the implementation strategy is developed, including milestones, financing, and monitoring; and

(d) In phase 4, the public hearing is held, statements of concurrence are solicited and submitted, and the action plan, including materials developed in phases 1, 2 and 3, is reviewed and submitted to the department for its approval.

(3) Each phase requires public involvement and consultation with implementing entities and agencies. Watershed management committees may obtain technical assistance during all four phases. Action plans may vary in content depending on water quality problems identified in the watershed, and on the feasibility and likelihood of success of various control strategies. Implementing entities are strongly encouraged to become involved early in the action planning process, and to continue and augment their ongoing efforts during plan development to prevent and correct nonpoint pollution.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-500, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-500, filed 3/2/88.]

WAC 400-12-515 Phase 1—Watershed characterization and goals and objectives development. (1) Purpose. This section establishes requirements for gathering and evaluating water quality information to define priority nonpoint pollution problems and for developing goals and objectives for the action plan.

(2) Watershed characterization.

(a) Intent. The purpose of the watershed characterization is to provide the lead agency and the watershed management committee, other decision-making bodies, and the public with the most accurate current information on the types and levels of pollutants from nonpoint sources, and the relative impacts on water quality and beneficial uses of the water resource. This is to include those areas or resources which are particularly sensitive to those pollutants. This information is to be used in developing and implementing action plan nonpoint pollution control strategies and in evaluating the effectiveness of these strategies. The characterization shall summarize current information and identify information needed to adequately define nonpoint pollution problems which need to be addressed.

(b) Preparation. Preparation of the watershed characterization shall be at the direction of the lead agency, and the watershed management committee as appropriate. The watershed management committee and the lead agency shall have the opportunity to evaluate the completeness and adequacy of the characterization. Other appropriate implementing agencies shall be involved in the preparation and review of the characterization.

(c) Minimum requirements. The watershed characterization shall include, at a minimum:

- (i) A description of the biological conditions and physical characteristics of the environment;
- (ii) Information on land use and population, including existing and potential trends;
- (iii) A description of habitats;
- (iv) An assessment of existing water quality and anticipated trends;
- (v) A map showing the action plan boundaries. Where a plan is being jointly prepared with a ground water management program, the boundaries of the ground water management planning area shall be included;
- (vi) A map showing jurisdictional boundaries of the local, state, federal, and tribal governments, participating special purpose districts and implementing entities in the watershed;
- (vii) A map showing all waterways, water bodies, and known wetlands;
- (viii) A discussion of existing federal, state, local, and other water quality programs ongoing in the watershed; and
- (ix) A description of information that is desirable but unavailable.

(3) Problem definition. Using information from the watershed characterization prepared in accordance with subsection (2) of this section, the committee shall prepare a description of the extent of the water quality problems result-

ing from nonpoint pollution in the planning area including, but not limited to:

(a) Beneficial uses of the water bodies and/or stream segments impaired or threatened by nonpoint pollution and the extent of the impairment or threat;

(b) The extent that water quality standards in the various water bodies, as specified in chapter 173-201 WAC (Water quality standards for surface waters of the state of Washington), are not being met;

(c) Impacts or potential impacts of nonpoint pollution on ground water and surface water;

(d) Wetlands affected or threatened by nonpoint pollution;

(e) Existing or potential nonpoint pollutants and their sources that threaten or impair beneficial uses or contribute to water quality degradation in each water resource identified in (a), (b), (c), and (d) of this subsection. All potential pollutants and their sources must be evaluated and ranked according to the extent of impairment of beneficial uses or contribution to water quality degradation. Evaluated pollutants shall include nutrients, pathogens, toxic chemicals, sediments, and other potential pollutants. Sources shall include farm practices, storm water, on-site septic systems, forest practices, boating and marinas, and any other source or potential source in the watershed. The evaluation shall include the best available estimates of the number and general location of sources and volume of pollutant loadings; and

(f) An analysis of the adequacy of existing water quality programs to prevent and correct nonpoint pollution.

(4) Goals and objectives. The committee shall prepare a statement of water quality goals and objectives. At a minimum, the goals and objectives statement shall provide for:

(a) Identifying the desired extent of protective measures and corrective actions that must be enacted to achieve the intended level of restoration and maintenance of beneficial uses;

(b) Achieving enhancement of water quality pursuant to chapter 173-201 WAC and chapter 90.48 RCW (Water pollution control); and

(c) Achieving consistency with the intent of this chapter, the programs resulting from Section 319 of the Federal Clean Water Act, and the plan.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-515, filed 11/6/91, effective 12/7/91.]

WAC 400-12-525 Phase 2—Action plan nonpoint pollution control strategy. (1) Purpose. This section guides the development of control strategies to prevent and minimize nonpoint pollution, protect beneficial uses, and achieve enhancement of water quality. Nonpoint pollution control strategies shall address the existing or potential nonpoint pollutants and sources identified by the watershed management committee as priorities. Control strategies for pollutants or sources which are not identified as priorities may be included in the action plan, but are not required.

(2) Approach. Watershed management committees may select voluntary, educational, and/or regulatory approaches for addressing nonpoint pollution in the watershed. Educational programs must involve agencies and/or individuals with expertise in education in program development and

implementation, while regulatory programs must provide adequate enforcement.

(3) **Minimum requirements.** The watershed management committee shall prepare a description and analysis of nonpoint pollution control strategies for each pollutant or source category which has been designated a priority. A source control strategy would address the pollutants from each source category which has been designated as a priority. A pollutant-by-pollutant strategy still entails control of sources in order to reduce or prevent pollutant loadings, but would be across the range of sources for that pollutant. The committee shall not be limited to the approaches described in subsection (4) of this section. The rationale for choosing or not choosing the approaches described in subsection (4) of this section for each source or pollutant control strategy shall be discussed, including the feasibility, cost, likelihood of success, and likelihood of achieving the stated goals and objectives. In addition, the committee shall describe the ways in which the nonpoint pollution control strategies will achieve enhancement of water quality and protection of beneficial uses in the watershed.

(4) **Nonpoint pollution source categories.** When addressing pollutants from farm practices, storm water and erosion, on-site septic systems, forest practices, marinas and boating, or other sources as applicable, the committee shall consider including the following in developing the nonpoint pollution control strategies:

(a) **Farm practices.** The intent of this strategy is to control nonpoint pollution that results from farm practices, and to emphasize education and incentives to obtain voluntary action for prevention and correction, the use of best management practices implemented as part of farm water quality management plans, and special considerations for noncommercial farms. Implementation of farm plans, including best management practices that meet USDA Soil Conservation Service technical standards, is the recommended control tool for action plans. The committee shall consider including a compliance and enforcement element for those cases where voluntary action is not obtained, and shall consider including the following:

(i) A farm inventory element that identifies all farms in the watershed, and includes information on the status of existing farm plans;

(ii) A prevention and corrective action element which includes: Provisions for encouraging farm operators without farm plans to develop and implement farm plans and to update existing farm plans; provisions for the local conservation district and lead implementing agency to evaluate on an ongoing basis the effectiveness of farm plan implementation; and special provisions to address nonpoint pollution from noncommercial farms;

(iii) An education element, coordinated with the conservation district and/or cooperative extension service, informing the agricultural community about nonpoint pollution from farm activities and the financial and technical assistance available to implement farm plans;

(iv) A compliance and enforcement element which includes: Incorporation of the Agriculture Compliance Memorandum of Agreement between the department, the Conservation Commission and conservation districts; addi-

tional enforcement provisions of the § 208 water quality management plans, such as the requirement for a National Pollutant Discharge Elimination system permit when applicable; and compliance with other applicable state and local laws and rules, such as the state water quality standards, and the federal Clean Water Act; and

(v) An exceptions element stating that any farm implementing an approved farm plan, as agreed upon by the operator and the conservation district, shall be exempt from further water quality regulation under this chapter unless there is a water quality violation pursuant to chapter 90.48 RCW (Water pollution control), chapter 90.52 RCW (Pollution Disclosure Act of 1971), or chapter 90.54 RCW (Water Resources Act of 1971) and/or degradation of water quality. In cases where a violation cannot be attributed to a specific farm or farms, the committee shall consider surveying and evaluating all pollution sources potentially contributing to the violation.

(b) **Storm water and erosion.** The intent of this strategy is to correct and prevent pollution from storm water and erosion originating in urban, suburban, and urbanizing areas of the watershed through focusing on a combination of problem evaluation, public education, use of best management practices, and management of the quality and quantity of storm water runoff. This strategy does not apply to drainage and erosion control activities of farm operations or forest practices addressed pursuant to (a) and (d) of this subsection. The committee shall consider including the following:

(i) An evaluation of existing drainage and erosion control ordinances, policies, and programs to determine their effectiveness in controlling erosion and managing storm water to enhance water quality and protect beneficial uses;

(ii) A ranked list of the most significant storm water and erosion problems in the watershed as determined by the severity of their threat to or impacts on beneficial uses, an explanation of the criteria used to complete the ranking, and identification of needed monitoring information when existing information is not adequate to fully rank the problems;

(iii) A prevention and corrective action element that includes applicable requirements of the Plan elements SW-1 through SW-4. If a watershed includes jurisdictions that encompass both urbanized areas as well as those not considered urbanized, as defined by the Plan, the watershed management committee, together with local government entities responsible for stormwater management, shall propose an appropriate boundary for SW-2 application based on the following criteria: Urban growth areas defined in chapter 36.70A RCW (Growth Management Act), land use designations, and other special purpose district boundaries under the urbanized designation. A watershed management committee may choose storm water management and erosion control requirements that are more stringent than those in the Plan;

(iv) Coordination with local hazardous waste plans pursuant to chapter 70.105 RCW (Hazardous waste management); and

(v) Compliance with the provisions of the National Flood Insurance Program, 44 C.F.R. Parts 59 and 60, and chapter 86.16 RCW, Flood plain management; consideration of and coordination with NPDES Permit Application Regula-

tions for Stormwater Discharges 40 C.F.R. Parts 122, 123, and 124, where appropriate.

(c) **On-site sewage disposal.** The intent of this strategy is to control nonpoint pollution that results from on-site sewage disposal systems and to emphasize prevention and remediation of water quality problems through education, regulation, correction of failing systems, and system maintenance. The committee shall consider including the following:

(i) Identification of geographic areas within the watershed with potential and existing risk of system failure, divided into categories of high, moderate, and low risk of failure, with an explanation of the criteria used. High risk areas are considered to be areas where systems are failing, where soils have severe limitations for sewage treatment, where development is occurring at high densities, or where other site conditions create a potential for surface or ground water contamination when on-site systems are used;

(ii) A prevention and corrective action element that includes: Provisions requiring adherence to chapter 246-272 WAC (On-site sewage system), particularly that failing systems be repaired or replaced; required use of alternative on-site sewage disposal systems in high risk areas, if site conditions permit the use of on-site sewage disposal; consideration of whether high risk areas would be better served, and water quality better protected, by a community or municipal sewage treatment system; provisions for an ongoing operation and maintenance program in high risk areas for existing and new systems utilizing a maintenance district or other mechanism that ensures proper functioning of systems; and in low and moderate risk areas, provisions for periodically informing users of on-site systems of the need for regular system maintenance; and

(iii) An education element directed at owners and those who install and service on-site systems, informing them about basic principles of system siting, design, installation, operation, and maintenance; local and state health requirements; available alternative systems; and financial assistance for remedial actions.

(d) **Forest practices.** The intent of this strategy is to control nonpoint pollution that results from forest practices and to emphasize coordination with forest practices and forest management programs. The committee shall consider including the following:

(i) Identification and ranking, with an explanation of criteria used, of water quality impacts in the watershed resulting from forest practices, using in part the watershed analysis tools available from the department of natural resources, and/or the cooperative evaluation, monitoring and research steering committee with the timber/fish/wildlife agreement, categorized by type of forest practice, geographic area of impact, and land ownership, and ranked according to the severity of threat to beneficial uses and public resources;

(ii) A coordination element that specifies how the water quality impact will be addressed, including the forest practices rule and regulations and timber/fish/wildlife agreement for state and private forest lands, and the national forest planning process for federal forest lands. Proposals for correcting water quality or fish habitat problems should be coordinated with the department of fisheries or department of wildlife;

(iii) Provisions to ensure that the requirements of the Forest Practices Act and rules and regulations for land use conversions are implemented consistently to their fullest extent by all jurisdictions in the watershed;

(iv) Provisions for ensuring consistency among local jurisdictions in the watershed in carrying out the forest practices provisions in WAC 222-50-020(3) relating to the Shoreline Management Act; review of proposed regulations, and proposal of new regulations, pursuant to RCW 76.09.040 and review of forest practice applications pursuant to RCW 76.09.050;

(v) An education element coordinated with the department of natural resources that informs private landowners, especially small landowners, about the availability of technical assistance on water quality best management practices and compliance with forest practices rules and regulations, and informs watershed residents about opportunities for information and comment on forest practices in the watershed; and

(vi) Procedures for coordinating water quality monitoring on forest lands in the watershed with state, federal and timber/fish/wildlife monitoring programs.

(e) **Marinas and boats.** The intent of this strategy is to control nonpoint pollution from marinas and boats, focusing on coordinated education efforts for the boating public and marina operators to reduce pollutants from improper sewage disposal and boat maintenance. The committee shall consider including:

(i) Provisions for coordinating with the state parks and recreation commission, the department of health, and the state agency task force and advisory committees under MB-1 of the plan; and

(ii) An education program in coordination with element MB-4 of the plan to inform marina operators and the boating public about nonpoint pollution from boating activities, as well as the available methods to control such pollution and applicable federal, state, and local programs, including: On-board sanitation; near-shore and on-shore sewage disposal facilities; use of paints and solvents; solid waste disposal; and other practices related to the use, repair, or maintenance of boats that may contribute to water quality degradation. The boating public shall also be informed of the importance of preventing discharges in sensitive areas particularly shellfish beds and swimming areas; and

(iii) Measures may be developed for shoreside sewage disposal facilities at marinas, regulation of waste discharges from recreational boats and liveaboards, and for the storage, use, and disposal of hazardous materials such as fuels, paints, and solvents.

(f) **Other nonpoint sources.** The intent is to control other priority or potential priority sources of nonpoint pollution in the watershed, including but not limited to pesticides, landfills, mines, sand and gravel pits, septage disposal practices, and contaminated sites, as needed. The committee shall consider including the following:

(i) A pesticides management strategy, emphasizing an education program coordinated with the cooperative extension service, conservation district, forest and farm practices strategies pursuant to this chapter, and the state department of agriculture. This will include informing users of pesticides in

the watershed about the potential water quality problems associated with the improper use, storage, and disposal of pesticides, and the less toxic alternatives, including integrated pest management practices and nonpesticide substances and techniques that do not degrade water quality. The education program shall consider utilizing the Puget Sound Pest Management Information Program developed under element PS-2 of the plan, and other appropriate actions, including possible use of the Pesticide Usage Survey developed under element PS-1 of the plan. The strategy shall also consider including provisions which recognize the state preemption to regulate pesticides pursuant to chapter 16-228 WAC (Pesticide regulations), chapter 17.21 RCW (Washington Pesticide Application Act) and chapter 15.58 RCW (Washington Pesticide Control Act).

(ii) A management strategy for addressing nonpoint pollution from landfills, mines, and sand and gravel pits shall consider including measures that local governments can incorporate into their permitting processes to minimize sedimentation, turbidity, particulates, and leachates from closed, active, and proposed landfills, mining, and excavation activities; an education program to inform those engaged in landfill and resource excavation activities about the potential water quality problems associated with these operations, existing applicable regulations, and effective methods to reduce erosion and leachates from these activities; and other appropriate actions.

(iii) A management strategy for septage disposal practices, including coordination with the local agency administering the regulations pursuant to chapter 173-304 WAC, Minimal functional standards for solid waste handling.

(iv) A management strategy for contaminated sites, including coordination with the plan, related federal superfund plans, and any relevant state cleanup plans.

(v) When addressing nonpoint pollution from other nonpoint sources, strategies shall be developed by the watershed management committee.

[Statutory Authority: 1996 c 138, 96-23-057, § 400-12-525, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW, 91-22-096, § 400-12-525, filed 11/6/91, effective 12/7/91.]

WAC 400-12-535 Phase 3—Action plan implementation strategy. The watershed management committee shall prepare a strategy for implementing the action plan, including the following:

(1) A description of the specific actions required of each implementing agency and local government, including federal compliance requirements pursuant to Section 313 of the Federal Clean Water Act, and a means of coordinating these actions within and among control strategies. Where possible, the implementation strategy shall include, but is not limited to, specifically worded statements, such as model ordinances, recommended government policy statements, interagency agreements, proposed legislative changes, and proposed amendments to local comprehensive plans;

(2) A schedule that includes annual milestones for implementing nonpoint pollution control strategies and a specified time frame for achieving action plan objectives;

(3) Estimated implementation costs and budget, including a financing element that identifies existing and potential

local, state, and federal funding sources to fully implement the action plan. Optional federal funding sources include: Sections 319, 104 (b)(3) and 205(j) of the Clean Water Act, funds from the U.S. Forest Service and U.S. Fish and Wildlife Service implementing the federal forest plan, Clean Vessel Act grants, Army Corps of Engineers environmental restoration project funds, U.S. Environmental Protection Agency environmental education grants, U.S. Department of Agriculture Rural Economic and Community Development Water and Waste Disposal and Low Income Repair loans and grants, U.S. Department of Agriculture Natural Resource Conservation Service funds, and Coastal Zone Management 306 grants, among others. Optional state funding sources include: The state revolving loan program the Centennial Clean Water Fund, the Jobs for the Environment program, department of transportation watershed mitigation investment funds, department of ecology public participation grants, the Washington state conservation commission nonpoint water quality implementation grants and habitat restoration fisher assistance program, the department of natural resources aquatic lands enhancement account, the interagency committee for outdoor recreation Washington wildlife and recreation fund, the department of community, trade, and economic development community development block grants, the public works trust fund, and others. The financing element shall include local long-term funding sources that are capable of generating revenues needed to sustain nonpoint pollution control programs, such as: Sewer and water utility districts, shellfish protection districts, conservation assessments, aquifer protection districts, lake management districts, flood control zone districts, drainage districts, on-site septic maintenance districts, conservation futures programs, and bonds, as well as current expense accounts. Additionally, the action team will maintain an updated list of funding sources and contacts which can be obtained by the public;

(4) Identification of a lead agency which must be willing and able to assume a leadership role in coordinating the implementation of the action plan and the public involvement process;

(5) A dispute resolution process to resolve disputes between the lead implementing agency and other implementing entities;

(6) A process and strategy for coordination and integration with ongoing planning and management programs within the watershed which impact water quality, including local, state, federal, and tribal plans and programs. Such plans and programs shall include comprehensive land use plans under the Growth Management Act, storm water and highway runoff plans, drainage basin plans, ground water management programs, flood control plans, wetlands management and protection programs, Coastal Zone Management Act Section 6217 coastal nonpoint pollution control programs, the Shoreline Master Program (chapter 173-19 WAC), shellfish and fisheries management programs, and others as appropriate;

(7) Provisions for public involvement in the preparation and adoption of implementation plans, policies, and/or ordinances. Such public involvement may include the designation of a watershed management council or similar body to

advise and assist the lead implementing agency with overseeing implementation of the action plan; and

(8) A method of evaluating the overall effectiveness of the action plan in preventing and correcting ground and surface water quality impacts from nonpoint pollution and protecting beneficial uses, including:

(a) A long-term monitoring program. The long-term monitoring program shall provide information on trends related to water quality, habitat, biological conditions, and land use to determine whether the nonpoint pollution control strategies in the approved action plan are effective; and

(b) A process for annual review. The lead implementing agency shall annually evaluate the effectiveness of the action plan and report the results of the evaluation to the department and affected parties. Every other year, this report shall include the results from the long-term monitoring program, as applicable, and shall coincide with the departmental biennial audit.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-535, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-535, filed 11/6/91, effective 12/7/91.]

WAC 400-12-545 Phase 4—Action plan review and approval. (1) Departmental review. The watershed management committee and lead agency shall periodically consult with the department for technical assistance in the preparation of the draft plan to be submitted for the public and agency review in subsection (2) of this section. The watershed management committee and lead agency shall submit draft portions of the plan, as each phase is completed, to the department for review.

(2) Public and agency review.

(a) As soon as the watershed management committee completes the draft action plan, the lead agency shall:

(i) Forward this draft action plan to the department for review;

(ii) Forward this draft action plan to the planning and implementing entities identified in the action plan for review and to initiate the process for obtaining concurrence;

(iii) Distribute this draft action plan to the public; and

(iv) Initiate the SEPA review process.

(b) Within thirty days after distribution of the draft action plan, the watershed management committee and implementing entities shall conduct a joint public hearing to take public testimony on the draft action plan.

(c) Each planning and implementing entity shall evaluate those provisions of the draft action plan which require the entity's involvement.

(d) The department, planning and implementing agencies, and the public shall provide comments to the lead agency within sixty days of the distribution of the draft action plan.

(e) The lead agency shall collect the comments and present them to the watershed management committee.

(f) The committee shall prepare final revisions to the action plan and a summary of responses to the comments and forward these, preferably within sixty days, to the lead agency and planning and implementing agencies for statements of concurrence.

(3) Statements of concurrence.

(a) Within sixty days of publication of the final proposed action plan, each implementing entity shall submit a statement of its concurrence to the watershed management committee, indicating its intent to adopt implementing policies, ordinances, and programs as required, or a statement of non-concurrence with the final proposed action plan which recommends specific revisions to those sections requiring its involvement. The lead agency need only concur with those provisions of the final proposed action plan which require its involvement.

(b) The committee shall attempt to resolve statements of nonconcurrence utilizing their dispute resolution process, prepare final revisions to the action plan, and approve it, preferably within sixty days.

(4) Action plan submittal. The final revised action plan shall be forwarded to the lead agency for submittal to the department. If there are unresolved issues or if there are statements of nonconcurrence which could not be resolved by the watershed management committee, these shall be described and included with the final revised action plan for submittal to the department. The lead agency shall propose solutions to any remaining statements of nonconcurrence and submit them to the department as part of the final action plan.

(5) Ecology approval process. Not more than thirty days from receipt of the final action plan, the department shall notify the lead agency, in writing, of its decision to approve or reject all or any portion of the final action plan. The lead agency shall promptly notify the watershed management committee of the decision of the department. Implementation of approved portions may proceed while approval of other portions is pending. To approve all or part of an action plan, the department must conclude that:

(a) The action plan is consistent with the goals and requirements of the plan;

(b) The action plan has been developed in accordance with the process described in this chapter;

(c) The plan contains a summary of the water quality characterization, the problem definition, and a statement of goals and objectives;

(d) The plan specifies a set of actions to be carried out by implementing entities to address the priority nonpoint pollution problems in the watershed and to meet the goals and objectives of the plan;

(e) The plan includes statements of concurrence from entities responsible for implementing recommendations of the action plan; in making a determination, the department shall consider the impact of any statements of nonconcurrence submitted with the action plan;

(f) The action plan includes a budget and implementation schedule;

(g) Adequate public involvement and participation has occurred in development of the action plan and a process for adequate public involvement in implementation of the plan is provided for in the action plan; and

(h) The plan complies with applicable state and federal laws.

(6) Action team chair review. If the department disapproves all or part of the action plan and the lead agency cannot reach agreement with the department on approval within sixty days, either the lead agency, the watershed management

committee, or the department may request review by the chair. The chair will review the decision for consistency with the plan and forward its determination to the department, lead agency, and watershed management committee.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-545, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-545, filed 11/6/91, effective 12/7/91.]

WAC 400-12-555 SEPA review. The action plan, subsequent revisions, and implementation actions of the action plan shall be subject to review pursuant to the State Environmental Policy Act, chapter 43.21C RCW, as required under the applicable state and local implementing regulations.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-555, filed 11/6/91, effective 12/7/91.]

WAC 400-12-565 Revisions. The lead agency or the department may initiate a process for making revisions to the action plan if either determines through annual evaluations or biennial audits that the nonpoint pollution control strategies or implementation provisions of the action plan are not effective. Upon determining that an action plan needs revision, the lead agency or the department shall provide written notice to the other, identifying the provisions of the action plan to be modified, the reason for the revision, and a reasonable time frame in which the revision is to be made.

All revisions to action plans shall be processed in accordance with the requirements of WAC 400-12-525, 400-12-535, 400-12-545, and 400-12-220.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-565, filed 11/6/91, effective 12/7/91.]

PART SIX ACTION PLAN IMPLEMENTATION

WAC 400-12-605 Decision of department. Within thirty days of approval or disapproval of all or part of the action plan by the department, the lead agency shall notify in writing all appropriate federal and state agencies, relevant local planning and implementing entities, and affected parties of the department's decision.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-605, filed 11/6/91, effective 12/7/91.]

WAC 400-12-615 Responsibilities of implementing entities. (1) Implementing entities are encouraged to adopt action plans, or applicable parts thereof, once approved by the department. Each local and state implementing entity identified in the action plan approved by the department shall be responsible for carrying out its portion of the action plan within the prescribed schedule, using the approaches described in the action plan, pursuant to RCW 90.71.050 and 90.71.070.

(2) In addition, affected local governments and state agencies with jurisdiction in the watershed shall be guided by the action plan in developing and approving all studies, plans, permits, and facilities in the watershed. The lead implementing agency shall seek to ensure consistency of federal agency

(2001 Ed.)

actions pursuant to Section 313 and Section 319 of the Clean Water Act, 33 U.S.C. 1251 et seq., as amended, if applicable.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-615, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-615, filed 11/6/91, effective 12/7/91.]

WAC 400-12-625 Lead agency responsibilities. (1) The lead implementing agency, identified in the implementation strategy developed in accordance with WAC 400-12-535, shall be responsible for coordinating among implementing entities and establishing a public involvement process.

(2) Pursuant to chapter 39.34 RCW (Interlocal Cooperation Act), cooperative agreements may be used to facilitate coordination among implementing entities and between the lead agency and implementing entities.

(3) The lead agency shall also be responsible for providing annual progress reports according to the requirements under WAC 400-12-535.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-625, filed 11/6/91, effective 12/7/91.]

WAC 400-12-635 Department responsibilities. The department shall provide ongoing oversight of watershed action plans. In addition, the department shall audit each watershed action plan every two years to ensure consistent and adequate implementation.

[Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-635, filed 11/6/91, effective 12/7/91.]

WAC 400-12-645 County responsibilities. Each county within the Puget Sound Basin will develop a prioritized list of watershed improvement projects.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-645, filed 11/19/96, effective 12/20/96.]

PART SEVEN PLAN COMPLIANCE

WAC 400-12-700 Default procedure. If a planning or implementing entity does not carry out its responsibilities pursuant to this chapter, such as develop action plans, and/or carry out its responsibilities under the approved action plan, and has not been granted an exception under WAC 400-12-710, the department shall work directly with that entity to identify reasons why and to develop an appropriate strategy for addressing nonpoint pollution concerns. If the planning or implementing entity fails to prepare and/or implement a watershed action plan, or portions thereof, the council shall follow procedures in RCW 90.71.070 and in element EM-8 of the plan to seek action. In addition, the department shall use its regulatory authority under chapter 90.48 RCW (Water pollution control) to require that water quality problems are corrected and, as a last resort, prepare action plans, and/or implement portions thereof.

[Statutory Authority: 1996 c 138. 96-23-057, § 400-12-700, filed 11/19/96, effective 12/20/96. Statutory Authority: Chapter 90.70 RCW. 91-22-096, § 400-12-700, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-700, filed 3/2/88.]

[Title 400 WAC—p. 17]

WAC 400-12-710 Exceptions. The lead agency may request approval of an alternative to the procedures or action plan content provisions of this chapter when there are special circumstances unique to that lead agency or watershed. Such requests shall be made in writing to the department and describe how the alternative is consistent with the intent of this chapter and the plan. If the department approves such an alternative, it shall specify in writing agreed-upon schedules and milestones for achieving objectives with adequate opportunities for public involvement, and shall clearly state that the exception may be revoked if the schedules and milestones are not achieved.

[Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-710, filed 3/2/88.]

WAC 400-12-720 Severability. If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

[Statutory Authority: RCW 90.70.055 and 90.70.060. 88-06-053 (Order 88-01), § 400-12-720, filed 3/2/88.]