

# Chapter 16-236 WAC

## SEPA PROCEDURES

### WAC

16-236-010	Authority.
16-236-020	Adoption by reference.
16-236-030	Purpose.
16-236-040	Additional definition.
16-236-050	Designation of responsible official.
16-236-060	EIS preparation.
16-236-070	Environmentally sensitive areas.
16-236-080	Threshold levels adopted by local governments.
16-236-090	Coordination of combined state-federal action.
16-236-100	Public notice requirements.
16-236-110	Notice/statute of limitations.
16-236-120	Policies and procedures for conditioning or denying permits or other approvals.
16-236-130	Severability.

**WAC 16-236-010 Authority.** These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-010, filed 11/30/84.]

**WAC 16-236-020 Adoption by reference.** The department of agriculture adopts the following sections of chapter 197-11 WAC by reference:

### WAC

197-11-020	Purpose.
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.
197-11-300	Purpose of this part.
197-11-305	Categorical exemptions.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.
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)
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.

### WAC

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.
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.
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.
197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.

WAC	
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-748	Environmentally sensitive area.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.
197-11-800	Categorical exemptions.
197-11-810	Exemptions and nonexemptions applicable to specific state agencies.
197-11-850	Department of agriculture.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.
197-11-900	Purpose of this part.
197-11-908	Environmentally sensitive areas.
197-11-912	Procedures on consulted agencies.
197-11-916	Application to ongoing actions.
197-11-917	Relationship to chapter 197-10 WAC.
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.

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

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-020, filed 11/30/84.]

**WAC 16-236-030 Purpose.** (1) This chapter implements the statewide rules in chapter 197-11 WAC as they apply to the department of agriculture.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the department to use all practical means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

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

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

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

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

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

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

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

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

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-030, filed 11/30/84.]

**WAC 16-236-040 Additional definition.** "Department" means department of agriculture unless otherwise indicated.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-040, filed 11/30/84.]

**WAC 16-236-050 Designation of responsible official.** Within the department of agriculture the ultimate responsible

official is the director. The responsible official for a specific proposal shall be the assistant to the director in charge of environmental affairs or his/her designee.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-050, filed 11/30/84.]

**WAC 16-236-060 EIS preparation.** (1) Preparation of draft and final EISs and SEISs is the responsibility of the assistant to the director in charge of environmental affairs or his/her designee. The responsible official shall be satisfied that all EISs and SEISs issued by the department are in compliance with these rules and chapter 197-11 WAC.

(2) Any draft or final EIS or SEIS shall be prepared by the department, the applicant, or by a consultant mutually agreed upon by the department and applicant.

(3) Whenever someone other than the department prepares a draft or final EIS or SEIS, the responsible official shall:

(a) Coordinate scoping to ensure that the individual preparing the document receives all substantive information submitted by any agency or person.

(b) Direct the areas of research and study to be undertaken and the content and organization of the document.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the document.

(d) Allow the person preparing the document access to department records relating to the document, as prescribed in chapter 16-06 WAC, Public records.

(4) Nothing herein shall be construed to prohibit the department from charging any fee of an applicant that the department is otherwise authorized to charge (see WAC 197-11-914). A performance bond in amount specified by the department may be required of the applicant to ensure payment of department expenses in preparing, in whole or in part, a draft or final EIS or SEIS.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-060, filed 11/30/84.]

**WAC 16-236-070 Environmentally sensitive areas.**

During threshold determination and in determining whether a proposal is exempt from SEPA, the department shall give all due consideration to "environmentally sensitive area" designations made by local governments under WAC 197-11-908.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-070, filed 11/30/84.]

**WAC 16-236-080 Threshold levels adopted by local governments.** During threshold determination and in determining whether a proposal is exempt from SEPA, the department shall respect threshold levels adopted by local governments under WAC 197-11-800.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-080, filed 11/30/84.]

**WAC 16-236-090 Coordination of combined state-federal action.** When the department considers actions which also involve federal actions, it shall coordinate the two governmental processes so that only one EIS, or other environmental document, need be prepared for that proposal.

(11/30/84)

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-090, filed 11/30/84.]

**WAC 16-236-100 Public notice requirements.** (1) When these rules require notice of environmental document preparation or availability, as a lead agency and taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation, the department shall give public notice by using at least one of the following methods:

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

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

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

(d) Notifying the news media; and/or

(e) Publishing notice in a department newsletter.

(2) Whenever possible, the department shall integrate these public notice requirements with existing notice procedures for any department permits or approvals required for the proposal.

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

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-100, filed 11/30/84.]

**WAC 16-236-110 Notice/statute of limitations.** (1) The department, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080.

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

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-110, filed 11/30/84.]

**WAC 16-236-120 Policies and procedures for conditioning or denying permits or other approvals.** (1) The policies and goals in this section are supplementary to existing authorities of the department.

(2) It is the policy of the department to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(3) The department shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision-making along with economic and technical considerations.

(4) When the environmental document for a proposal shows it will cause significant adverse impacts, the responsible official shall consider whether:

(a) The environmental document identified mitigation measures that are reasonable and capable of being accomplished;

[Ch. 16-236 WAC—p. 3]

(b) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and

(c) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(5) When the environmental document for a proposal shows it will cause significant adverse impacts, the responsible official may:

(a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is consistent with the policies in this section; or

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in this section.

(6) The procedures in WAC 197-11-660 shall also be followed when conditioning or denying permits or other approvals.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-120, filed 11/30/84.]

**WAC 16-236-130 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: Chapter 43.21C RCW. 84-24-033 (Order 1843), § 16-236-130, filed 11/30/84.]