



**PROPOSED RULE MAKING
(RCW 34.05.320)**

**CR-102 (7/22/01)
Do NOT use for expedited
rule making**

Agency: Department of Ecology A.O. #02-12 Original Notice

Preproposal Statement of Inquiry was filed as WSR 02-20-080 ; or
 Expedited Rule Making -- Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4). Supplemental Notice to WSR _____
 Continuance of WSR _____

(a) Title of rule: (Describe Subject) SEPA Rules, Chapter 197-11 WAC
 Purpose: The proposed amendments are necessary to make Ecology's SEPA rules consistent with legislation set forth in RCW 43.21C statutorily exempting specific proposed actions from SEPA review.
 Other identifying information: Amendments are proposed to the following SEPA rules: WAC 197-11-070, WAC 197-11-250, WAC 197-11-310, WAC 197-11-800, WAC 197-11-820, WAC 197-11-835, WAC 197-11-850, WAC 197-11-855, WAC 197-11-902, WAC 197-11-904, WAC 197-11-908.

(b) Statutory authority for adoption: RCW 43.21A.090, RCW 43.21C, RCW 43.21C.035, RCW 43.21C.037, RCW 43.21C.038, RCW 43.21C.0381, RCW 43.21C.0382, RCW 43.21C.0383, RCW 43.21C.110, RCW 43.21C.222	Statute being implemented: RCW 43.21C, RCW 43.21C.035, RCW 43.21C.037, RCW 43.21C.038, RCW 43.21C.0381, RCW 43.21C.0382, RCW 43.21C.0383, RCW 43.21C.110, RCW 43.21C.222
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(c) Summary: The proposed amendments clarify Ecology's "categorical rule exemptions" by removing the "statutory exemptions" codified in RCW 43.21C (except RCW 43.21C.0384 dealing with personal wireless services facilities) from the list of "categorical rule exemptions" in Part Nine of the rules, renumber and reletter sections within the rules as necessary, and clarify that threshold determinations are not required for those actions statutorily exempt as provided in RCW 43.21C.
 Reasons supporting proposal: The legislature has statutorily exempted certain actions from SEPA review in RCW 43.21C. However, when Ecology adopted the SEPA rules in 1984, these "statutory exemptions" were included within the list of "categorical rule exemptions" contained in Part Nine of the SEPA rules. This has resulted in the "statutory exemptions" being subject to SEPA review in certain prescribed circumstances. This is inconsistent with legislation contained in RCW 43.21C.

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting..... Barbara Ritchie	300 Desmond Dr., Lacey, Washington	360/407-6922
2. Implementation.... Barbara Ritchie	300 Desmond Dr., Lacey, Washington	360/407-6922
3. Enforcement..... NA		

(e) Name of proponent (person or organization): Department of Ecology Private
 Public
 Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:
None

(g) Is rule necessary because of:
 Federal Law? Yes No If yes, ATTACH COPY OF TEXT
 Federal Court Decision? Yes No Citation:
 State Court Decision? Yes No

(h) HEARING LOCATION: Department of Ecology 300 Desmond Dr. Lacey Auditorium, Room 36 Date: <u>February 26, 2003</u> Time: 2:00 P.M.	Submit written comments to: Barbara Ritchie PO Box 47703 Olympia, WA 98504-7703 Email: sepaunit@ecy.wa.gov Phone: (360) 407-6922 FAX (360)407-6904 By 5:00 P.M. March 5, 2003
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Assistance for persons with disabilities: Contact Barbara Ritchie by <u>February 14, 2003</u> (360) 407-6922 or 711 (TTY) or 1-800-833-8973 (TTY)	DATE OF INTENDED ADOPTION: April 15, 2003 CODE REVISER USE ONLY CODE REVISER'S OFFICE STATE OF WASHINGTON FILED
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NAME (TYPE OR PRINT) Linda Hoffman	JAN 15 2003	
SIGNATURE 	TIME 1:45 PM WSR 03-03-082	
TITLE Deputy Director	DATE 1/15/03	

(j) Short explanation of rule, its purpose, and anticipated effects:

The proposed amendments remove the "statutory exemptions" codified in RCW 43.21C.035, RCW 43.21C.037, RCW 43.21C.038, RCW 43.21C.0381, RCW 43.21C.0382, RCW 43.21C.0383, and RCW 43.21C.222 from the list of "categorical rule exemptions" in Part Nine of Ecology's SEPA rules; renumber and reletter the rules as necessary to reflect the removal of the referenced "statutory exemptions" from the rules; and clarify that threshold determinations are not required for those actions statutorily exempt provided in RCW 43.21C. The purpose and effect of the proposed amendments is to make Ecology's SEPA rules consistent with legislation set forth in RCW 43.21C and to clarify that these statutory exemptions are not subject to the provisions of WAC 197-11-305.

Does proposal change existing rules? YES NO

If yes, describe changes:

Deletion of the referenced "statutory exemptions" from the list of "categorical rule exemptions" in Part Nine of Ecology's SEPA rules, clarifies that the referenced "statutory exemptions" are not subject to the provisions of WAC 197-11-305. The proposed amendment to WAC 197-11-310 clarifies that a threshold determination is not required for any proposal statutorily exempt as provided in RCW 43.21C. No changes result to the "statutory exemptions" which remain in effect as codified in RCW 43.21C.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by writing to:

telephoning: ()

faxing: ()

No. Explain why no statement was prepared

RCW 19.85.030 requires an agency to prepare a small business economic impact statement (SBEIS) "if the proposed rule will impose more than minor costs on businesses in any industry." The proposed amendments to Ecology's SEPA rules don't impose any costs on businesses. Therefore, a SBEIS is not required for the proposed rule amendments.

(l) Does RCW 34.05.328 apply to this rule adoption? Yes No

Please explain: Ecology has made a determination that the proposed amendments are not significant legislative rules. However, the agency intends to voluntarily comply with the requirements of RCW 34.05.328.