



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Ecology AO #13-01

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: See Exhibit "A" attached hereto and made a part hereof:

Citation of existing rules affected by this order:

Repealed: Chapter 173-806 WAC; Chapter 197-06 WAC
Amended: Chapter 197-11 WAC
Suspended:

Statutory authority for adoption: State Environmental Policy Act RCW 43.21C.110, See Also RCW 43.21C.100 which abolished the council of Environmental Policy as of June 30, 1976.

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-01-078 on December 16, 2013.

Describe any changes other than editing from proposed to adopted version:

See Exhibit "B" attached hereto and made a part hereof:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted: 4/9/2014

NAME (TYPE OR PRINT)

Maia D. Bellon

SIGNATURE

Maia Bellon by Roby Zehm

TITLE

Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 09, 2014

TIME: 11:13 AM

WSR 14-09-026

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>1</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>45</u>	Repealed	<u>48</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Exhibit "A"

Purpose of the rule and its anticipated effects, including any changes in existing rules:

Ecology is adopting amendments to **Chapter 197-11 WAC**, State Environmental Policy Act (SEPA). The rule changes include, but are not limited to the following:

- Expanded use of NEPA documentation by lead agencies.
- Update of definition for "lands covered by water".
- For adoption of increased flexible thresholds for minor new construction, more specific requirements regarding cultural resources and an increase in notice to 60 days.
- Expanded minor new construction exemptions for installation or removal of tanks and solar energy projects.
- New exemption for small maintenance dredging projects.
- Update of exemption for land use decisions to provide that most land use decisions will be exempt for otherwise exempt projects, with some limited exceptions.
- New exemption for formation of special districts.
- New exemption for text amendments of ordinances or codes that do not change environmental standards.
- Update of utility exemption for water pipe size to align with industry standards.
- Allow Department of Natural Resource (DNR) Rock sales on state owned land.
- Clarified and expanded Washington State Department of Transportation (WSDOT) maintenance exemptions.
- Environmental checklist updates.
- Other minor updates, clarifications and technical corrections.

Ecology is repealing **Chapter 173-806 WAC - Model Ordinance** in response to changes being made in Chapter 197-11 WAC and will make the model ordinance available as guidance rather than rule.

Ecology is repealing **Chapter 197-06 WAC – Public Records**. This rule is being repealed because (1) a number of the provisions are specific to the Council on Environmental Policy that was established in the 1970's and no longer exists; (2) The sections of the rule related to public records have been superseded by Chapter 173-03 WAC.

Exhibit “B”

Changes described other than editing from the proposed rule to adopted rule.

WAC Section	Description of change
197-11-610	Added a clarification that a National Environmental Policy Act (NEPA) Environmental Assessment is to support a determination not replace it.
197-11-800 (1)(c)(ii)	Provided clarification that notice is to include public, affected tribes and agencies.
197-11-800 (1)(c)(iii)	For clarification - identified "agency" instead of "local government".
197-11-800 (1)(c)(iv)	Section has been reworded and clarification added to address Cultural Resource concerns, the intent remains the same.
197-11-800 (2)(a)(i-iv)	Re-organized the beginning of 800 (2) and corrected a typographical error – intent is the same.
197-11-800 (26)	Section was moved from 197-11-860 to 197-11-800 (26). If left in 860 the exemption would not be applicable to the permits issued by other agencies for Washington State Department of Transportation (WSDOT) repair, replace or retrofit projects. This was moved to clarify intent - certain WSDOT projects are intended to be exempt from SEPA.
197-11-800 (2)(h)	Added “total” to capacity for clarity.
197-11-800 (5)	Improved clarity of section in response to comments. The intent of this section is to exempt the sale of public property from SEPA only if the property is not specifically designated and authorized for public use.
197-11-800 (6)	There was confusion from stakeholders about Ecology's intent. Changes have been made in response to add clarity and also identify that boundary line adjustments are exempt from SEPA.
197-11-830	Clarified in response to comments – the intent is to exempt the sale of rock from Washington Department of Natural Resources (DNR) rock pits regulated under a forest practices permit.
197-11-860	Moved language in this section to 197-11-800(26).
197-11-875 (19)	Technical correction - added in the” Pollution Control Hearings Board” which replaced the” Forest Practices Appeals Board”.
197-11-936	Clarified section and inserted "local agency" instead of "county/city" as other types of local government's (ports, special districts, etc...) can be lead agency.
197-11-938 (12)	Technical Correction – section should refer to Department of Health for uranium milling, not Department of Social and Health Services.
197-11-960	Provided corrections and clarifications to questions on the checklist in response to comments. No new questions or topics have been added.