

Title 18

STATE ENVIRONMENTAL POLICY ACT PROCEDURES

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Chapter 18.04

STATE ENVIRONMENTAL POLICY ACT PROCEDURES

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Article I

Authority

18.04.010 Authority.

The Grays Harbor County Board of Commissioners adopts the ordinance codified in this chapter under the State Environmental Policy Act (EPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This chapter contains the county's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC or their successor, must be used in conjunction with this chapter. (Ord. 224 § 14.04.010, 1996)

Article II

General Requirements

18.04.020 Purpose and adoption by reference.

This article contains the basic requirements that apply to the SEPA process. The county adopts the following sections of Chapter 177-11 of the Washington Administrative Code by reference:

WAC 197-11-040	Definitions.
WAC 197-11-050	Lead agency.
WAC 197-11-055	Timing of the SEPA process.
WAC 197-11-060	Content of environmental review.
WAC 197-11-070	Limitations on actions during SEPA process.
WAC 197-11-080	Incomplete or unavailable information.
WAC 197-11-090	Supporting documents.
WAC 197-11-100	Information required of applications.

(Ord. 224 § 14.06.010, 1996)

18.04.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

“Department” means any division, subdivision, or organizational unit of the county established by ordinance, rule, or order.

“Early notice” means the county's response to an applicant stating whether it considers issuance of a determination of nonsignificance (DNS) procedures.

“Ordinance” means the ordinance, resolution, or other procedure used by the county to adopt regulatory requirements.

“SEPA rules” means chapter 197-11 WAC or its successor adopted by the Department of Ecology. (Ord. 224 § 14.06.020, 1996)

18.04.040 Designation of responsible official.

A. Proposals by Agencies or departments of Grays Harbor County. The head administrative official of the department with primary responsibility for initiating and carrying out a proposal shall be the responsible official. Where two or more departments share responsibility to the extent that primary responsibility cannot be determined, the Board of County Commissioners shall designate a responsible official for that project.

B. Proposals by Private Applicants. The head administrative official of the department with primary responsibility for reviewing and making a decision on a permit or license for a project shall be the responsible official. Where two or more departments have a permit responsibility on a project and one of the departments with responsibility is the public services department, the director of the planning division shall be the responsible official. Where two or more departments other than the public services department have a permit responsibility, the Board of County Commissioners shall designate a responsible official.

C. For all proposals for which the county is lead agency the responsible official determined pursuant to subsections A and B of this section shall be responsible for compliance with the requirements of this chapter and the associated provision of the Washington Administrative Code and Revised Code of Washington (WAC 197-11 and RCW 43.21C).

D. The responsible official shall retain all documents required by this title and make them available in accordance with RCW 42.17. (Ord. 224 § 14.06.030, 1996)

18.04.050 Lead agency determination and responsibilities.

A. The department within the county receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-0505 and 197-11-022 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

B. When the county is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

C. When the county is not the lead agency for a proposal, all departments of the county shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No county department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the county may conduct supplemental environmental review under WAC 197-11-600.

D. If the county or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-022 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination, or the county must petition the Department of Ecology for a lead agency determination under WAC 1197-11-946

within the fifteen (15) day time period. Any such petition on behalf of the county may be initiated by the director of public services.

E. Departments of the county are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that any department that will incur responsibilities as the result of such agreement approves the agreement.

F. The responsible official when making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (That is: Which agencies require nonexempt licenses?). (Ord. 224 § 14.06.050, 1996)

#### 18.04.060 Additional consideration in time limits applicable to the SEPA process.

The following time limits (expressed in calendar days) shall apply when the county processes licenses for all private projects and those governmental proposals submitted to the county by other agencies:

A. Categorical Exemptions. The county shall identify whether an action is categorically exempt within seven days of receiving a completed application.

B. Threshold Determinations.

1. The county shall complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen (15) days of the date an applicant's adequate application and completed checklist are submitted.

2. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

a. The county shall require such further information within fifteen (15) days of receiving an adequate application and completed environmental checklist;

b. The county shall wait no longer than thirty (30) days for a consulted agency to respond;

c. The responsible official shall complete the threshold determination within fifteen (15) days of receiving the requested information from the applicant or the consulted agency.

C. When the county must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the county shall complete the studies within thirty (30) days of receiving an adequate application and a completed checklist.

D. The county shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen (15) days of receiving an adequate application and completed checklist. (Ord. 224 § 14.06.060, 1996)

#### 18.04.070 Additional timing considerations.

A. For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the county's staff recommendation to any appropriate advisory body, such as the planning commission.

B. If the county's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the county conduct environmental review prior to submission of the detailed plans and specifications. The point at which environmental review may be initiated for specific permits or other licenses re-

quiring detailed project plans and specifications is upon receipt of the environmental checklist. (Ord. 224 § 14.06.070, 1996)

### Article III

#### Categorical Exemptions and Threshold Determinations

18.04.080 Purpose and adoption by reference.

This article contains the rules for deciding whether a proposal has a probable significant, adverse environmental impact requiring an environmental impact statement (EIS) to be prepared. This article also contains rules for evaluating the impacts of proposals not requiring an EIS. Grays Harbor County adopts the following sections by reference, as supplemented in this article.

WAC 197-11-300	Purpose of this part.
WAC 197-11-305	Categorical exemptions.
WAC 197-11-310	Threshold determination required.
WAC 197-11-315	Environmental checklist.
WAC 197-11-330	Threshold determination process.
WAC 197-11-335	Additional information.
WAC 197-11-340	Determination of nonsignificance (DNS).
WAC 197-11-350	Mitigated DNS.
WAC 197-11-360	Determination of significance (DS)/Initiation of scoping.
WAC 197-11-390	Effect of threshold determination.

(Ord. 224 § 14.08.010, 1996)

18.04.090 Thresholds for categorical exemptions.

A. Grays Harbor County establishes the following levels as constituting minor new construction under WAC 197-11-800. The determination that review of project of the sizes indicated is unnecessary is based on local experience which indicates limited if any unique benefit from review pursuant to this chapter considering that other regulatory ordinances provide a system for addressing identified concerns. Minor new construction is exempt from the threshold determination requirements of this chapter.

1. Construction or location of any residential structures of up to ten (10) dwelling units;
2. The construction of any barn, loafing shed, farm equipment storage building, produce storage or packing structure or similar agricultural structure covering up to thirty thousand square feet (30,000 sq. ft.) and to be used only by the property owner or his or her agent in the conduct of farming the property on which the building is located. This exemption shall not apply to feed lots or their associated structures;
3. The construction of an office, school, commercial, recreational, service or storage building with up to ten thousand square feet (10,000 sq. ft.) of gross floor area, and with associated parking facilities designed for up to forty (40) automobiles;

4. The construction of a parking lot designed for up to forty (40) automobiles.

B. Whenever the county establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c). (Ord. 224 § 14.08.020, 1996)

#### 18.04.100 Use of exemptions.

A. For all licenses and other nonexempt proposals, the responsible official shall determine whether the license and/or the proposal is exempt. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The county shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions, the county may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The county shall not give authorization for:

- a. Any nonexempt action,
- b. Any action that would have an adverse environmental impact, or
- c. Any action that would limit the choice of alternatives.

2. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

3. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. (Ord. 224 § 14.08.030, 1996)

#### 18.04.110 Environmental checklist.

A. A completed environmental checklist (or a copy) in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The county shall use the environmental checklist to determine the lead agency and, if the county is the lead agency, for determining the responsible official and for making the threshold determination.

B. For private proposal, the county will require the applicant to complete the environmental checklist providing assistance as necessary. For county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The county may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal if either of the following occurs:

1. The county has technical information on a question or questions that are unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. (Ord. 224 § 14.08.040, 1996)

18.04.120 Mitigated determination of nonsignificance (MDNS).

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a determination of significance (DS) is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

2. Precede the county's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within ten (10) working days. The response shall:

1. Be written;

2. State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the county to consider a DS; and

3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the county shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal;

1. If the county indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the county shall issue and circulate a DNS under WAC 197-11-340(2).

2. If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.

3. The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific. For example, proposals to control noise or prevent stormwater runoff are inadequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies, or other documents.

F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen- (15) day comment period and public notice.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the county.

H. If the county's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the county should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

I. The county's written response under subsection B of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the county to consider the clarifications or changes in this threshold determination. (Ord. 224 § 14.08.050, 1996)

#### Article IV

#### Environmental Impact Statement (EIS)

##### 18.04.130 Purpose and adoption by reference.

This article contains the rules for preparing environmental impact statements. Grays Harbor County adopts the following sections by reference as supplemented by this article:

WAC 197-11-400	Purpose of EIS.
WAC 197-11-402	General requirements.
WAC 197-11-405	EIS types.
WAC 197-11-406	EIS timing.
WAC 197-11-408	Scoping.
WAC 197-11-410	Expanded scoping.
WAC 197-11-420	EIS preparation.
WAC 197-11-425	Style and size.
WAC 197-11-430	Format.
WAC 197-11-435	Cover letter or memo.
WAC 197-11-440	EIS contents.
WAC 197-11-442	Contents of EIS on nonproject proposals.
WAC 197-11-443	EIS contents when prior nonproject EIS.
WAC 197-11-444	Elements of the environment.
WAC 197-11-448	Relationship of EIS to other considerations.
WAC 197-11-450	Cost-benefit analysis.
WAC 197-11-455	Issuance of DEIS.
WAC 197-11-460	Issuance of FEIS.

(Ord. 224 § 14.10.010, 1996)

##### 18.04.140 Preparation of EIS -- Additional considerations.

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the responsible official. Before the county issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11-WAC.

B. The DEIS and FEIS or draft and final SEIS shall be prepared by county staff, the applicant, or by a consultant selected by the county or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the county will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the county's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

C. The county may require an applicant to provide information the county does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (This does not apply to information the county may request under another ordinance or statute.)

D. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. (Ord. 224 § 14.10.020, 1996)

## Article V Commenting

### 18.04.150 Adoption by reference.

This article contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. Grays Harbor County adopts the following sections by reference, as supplemented in this article.

WAC 197-11-500	Purpose of this part.
WAC 197-11-502	Inviting comment.
WAC 197-11-504	Availability and cost of environmental documents.
WAC 197-11-508	SEPA register.
WAC 197-11-535	Public hearings and meetings.
WAC 197-11-545	Effect of no comment.
WAC 197-11-550	Specificity of comments.
WAC 197-11-560	FEIS response to comments.
WAC 197-11-570	Consulted agency costs to assist lead agency.

(Ord. 224 § 14.12.010, 1996)

### 18.04.160 Public notice.

A. Whenever Grays Harbor County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the county shall give public notice as follows:

1. If a public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
2. If no public notice is required for the permit or approval, the county shall give notice of the DNS or DS by:
  - a. Publishing notice in a newspaper of general circulation in the county, or general area where the proposal is located;
  - b. Posting a notice at the county courthouse.
3. Whenever the county issues a DS under WAC 197-11-360(3), the county shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
  - B. Whenever Grays Harbor County issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
    1. Indicating the availability of the DEIS in any public notice required for a nonexempt license;
    2. Publishing notice in a newspaper of general circulation in the county, or general area where the proposal is located; and
    3. Posting a notice at the county courthouse.
  - C. Whenever possible, the county shall integrate the public notice required under this section with existing notice procedures for the county's nonexempt permit(s) or approval(s) required for a proposal.
  - D. The county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 234 § 14.12.020, 1997)

- 18.04.170 Designation of official to perform consulted agency responsibilities for the county.
- A. The responsible official shall be responsible for preparation of written comments for the county in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
  - B. The responsible official shall be responsible for the county's compliance with WAC 197-11-550 whenever the county is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the county. (Ord. 224 § 14.12.030, 1996)

Article VI  
Using Existing Environmental Documents

- 18.04.180 Purpose and adoption by reference.
- This article contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the county's own environmental compliance. Grays Harbor County adopts the following sections by reference:

WAC 197-11-610	When to use existing environmental documents.
WAC 197-11-610	Use of NEPA documents.

WAC 197-11-620	Supplemental environmental impact statement-Procedures.
WAC 197-11-625	Format.
WAC 197-11-630	Cover letter or memo.
WAC 197-11-635	EIS contents.
WAC 197-11-640	Contents of EIS on nonproject proposals.

(Ord. 234 § 14.14.01, 1997)

## Article VII

### SEPA and Agency Decisions

18.04.190 Purpose and adoption by reference.

This article contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. Grays Harbor County adopts the following sections by reference as supplemented by this article.

WAC 197-11-650	Purpose of this part.
WAC 197-11-655	Implementation.
WAC 197-11-660	Substantive authority and mitigation.
WAC 197-11-689	Appeals.

(Ord. 224 § 14.16.010, 1996)

18.04.200 Substantive authority.

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of Grays Harbor County.

B. The county may attach conditions to a permit or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter;

2. Such conditions are in writing;

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;

4. The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.

C. The county may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter;

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.

D. The county designates and adopts by reference the following policies as the basis for the county's exercise of authority pursuant to this section:

1. The county shall use all practicable 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.

2. The county 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.

3. Grays Harbor County adopts by reference the policies in the adopted Grays Harbor County comprehensive plan, the Grays Harbor County shoreline management master program, the Grays Harbor County subdivision ordinance, and the comprehensive sewer and water plans. (Ord. 224 § 14.16.020, 1996)

#### 18.04.210 Appeals.

Appeals of SEPA determinations shall be made as set forth in the laws of the state of Washington. (Ord. 224 § 14.16.030, 1996)

### Article VIII

#### Definitions

#### 18.04.220 Purpose and adoption by reference.

This article contains uniform usage and definitions of terms under SEPA. Grays Harbor County adopts the following sections by reference, as supplemented by WAC 173-806-040.

WAC 197-11-700	Definitions.
WAC 197-11-702	Act.
WAC 197-11-704	Action.

WAC 197-11-706	Addendum.
WAC 197-11-708	Adoption.
WAC 197-11-710	Affected tribe.
WAC 197-11-712	Affecting.
WAC 197-11-714	Agency.
WAC 197-11-716	Applicant.
WAC 197-11-718	Built environment.
WAC 197-11-720	Categorical exemption.
WAC 197-11-722	Consolidated appeal.
WAC 197-11-724	Consulted agency.
WAC 197-11-726	Cost-benefit analysis.
WAC 197-11-728	City/county.
WAC 197-11-730	Decision maker.
WAC 197-11-732	Department.
WAC 197-11-734	Determination of nonsignificance (DNS).
WAC 197-11-736	Determination of significance (DS).
WAC 197-11-738	EIS.
WAC 197-11-740	Environment.
WAC 197-11-742	Environmental checklist.
WAC 197-11-744	Environmental document.
WAC 197-11-746	Environmental review.
WAC 197-11-748	Environmentally sensitive area.
WAC 197-11-750	Expanded scoping.
WAC 197-11-752	Impacts.
WAC 197-11-754	Incorporation by reference.
WAC 197-11-756	Lands covered by water.
WAC 197-11-758	Lead agency.
WAC 197-11-760	License.
WAC 197-11-762	Local agency.
WAC 197-11-764	Major action.
WAC 197-11-766	Mitigated DNS.
WAC 197-11-768	Mitigation.
WAC 197-11-770	Natural environment.
WAC 197-11-772	NEPA.
WAC 197-11-774	Nonproject.
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WAC 197-11-790	SEPA.
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WAC 197-11-797	Threshold determination.
WAC 197-11-799	Underlying governmental action.

(Ord. 224 § 14.18.010, 1996)

## Article IX

### Categorical Exemptions

18.04.230 Adoption by reference.

Grays Harbor County adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):

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

(Ord. 224 § 14.20.010, 1996)

## Article X

### Agency Compliance

18.04.240 Purpose and adoption by reference.

This article contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. Grays Harbor County adopts the following sections by reference, as supplemented by WAC 173-806-050 through 173-806-053 and this article:

WAC 197-11-900	Purpose of this part.
WAC 197-11-902	Agency SEPA policies.
WAC 197-11-916	Application to ongoing action.
WAC 197-11-920	Agencies with environmental expertise.
WAC 197-11-922	Lead agency rules.

WAC 197-11-924	Determining the lead agency.
WAC 197-11-926	Lead agency for governmental proposals.
WAC 197-11-928	Lead agency for public and private proposals.
WAC 197-11-930	Lead agency for private projects with one agency with jurisdiction.
WAC 197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a city/county.
WAC 197-11-934	Lead agency for private projects requiring licenses from a local agency, not a city/county, and one or more state agencies.
WAC 197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
WAC 197-11-938	Lead agencies for specific proposals.
WAC 197-11-940	Transfer of lead agency status to a state agency.
WAC 197-11-942	Agreements on lead agency status.
WAC 197-11-944	Agreements on division of lead agency duties.
WAC 197-11-946	DOE resolution of lead agency disputes.
WAC 197-11-948	Assumption of lead agency status.

(Ord. 224 § 14.22.010, 1996)

#### 18.04.250 Fees.

Grays Harbor County shall require the following fees for its activities in accordance with the provisions of this chapter:

A. **Threshold Determination.** For every environmental checklist, the county will review, when it is lead agency, the county shall collect a fee which may be set by resolution by the county commissioners from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee. When the county completes the environmental checklist at the applicant's request or under WAC 173-806-909(3) of this chapter, an additional fee which may be set by resolution by the county commissioners shall be collected.

#### B. Environmental Impact Statement.

1. When the county is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the county, the county may charge and collect a reasonable fee from any applicant to cover costs incurred by the county in preparing the EIS. The responsible official shall advise the applicant(s) of the project costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

2. The responsible official may determine that the county will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the county and may bill such costs and expenses directly to the applicant. The county may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the county and applicant after a call for proposals.

3. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subdivision 1 or 2 of this subsection which remain after incurred costs are paid.

C. The county may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

D. The county shall not collect a fee for performing its duties as a consulted agency.

E. The county may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW. (Ord. 224 § 14.22.020, 1996)

## Article XI

### Forms

18.04.260 Adoption by reference.

Grays Harbor County adopts the following forms and sections by reference:

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

(Ord. 224 § 14.24.010, 1996)

## Chapter 18.08

### APPEALS OF ENVIRONMENTAL HEALTH DEPARTMENT DECISIONS

#### Sections:

18.08.010 Who may appeal.

18.08.020 Preappeal conference.

18.08.030 Appeal to director of environmental health.

18.08.040 Appeal to director of public services or county health officer.

18.08.050 Appeal to the board of health.

18.08.010 Who may appeal.

Any person aggrieved by a decision or order of the environmental health division made pursuant to local or state environmental health rules and regulations or policies of the division may appeal that decision or order. (Ord. 234 § 1, 1997)

18.08.020 Preappeal conference.

Any individual aggrieved by a decision of the environmental health staff (hereinafter referred as the appellant) may avail himself or herself of the opportunity for an office conference with the staff person who made the decision under dispute. Such appeal shall be made within ten (10) days of the date of the decision. At such preappeal conference, the environmental health division may evaluate any new information and shall either affirm the decision or reverse the decision. The preappeal conference is optional, and need not be availed of by the appellant. (Ord. 234 § 2, 1997)

18.08.030 Appeal to director of environmental health.

If the appellant is not satisfied with the results of the preappeal conference or has not availed himself or herself of the preappeal conference, the appellant may initiate the appeals procedure in writing on forms supplied by the environmental health division. Completed forms may be obtained at and then delivered to the environmental health division office or sent by mail to be received within thirty (30) days following the preappeal conference or thirty (30) days from the date of the staff person's decision if the appellant chooses to bypass the preappeal conference, whichever is later. The director of environmental health shall perform an administrative review and issues a decision within ten (10) days of receipt of the appeal. (Ord. 234 § 3, 1997)

18.08.040 Appeal to director of public services or county health officer.

If the appellant is not satisfied with the determination by the director of environmental health, he or she may appeal to the director of public services or county health officer. The director of environmental health shall, in his or her sole discretion, determine to whom the appeal shall be made based on the type of appeal requested, and there is no appeal from this decision. The appeal must be received within thirty (30) days following the determination by the director of environmental health. A hearing will be scheduled within twenty (20) days of this request. Notice of the time and place of this hearing will be sent to the appellant.

The environmental health staff shall coordinate and assemble the information concerning the matter under appeal and present to the director of public services or county health officer for review no later than seven days prior to the scheduled hearing. Appellant may submit evidence to the environmental health division for presentation at the appeal hearing before the director of public services or county health officer. Any such evidence shall be submitted ten (10) days prior to the hearing. Information submitted to the director of public services or county health officer shall include all documents submitted by the appellant to the environmental health division. Within ten (10) days following the hearing, the director of public services or county health officer shall render a written decision on the appeal. (Ord. 234 § 4, 1997)

18.08.050 Appeal to the board of health.

Any appellant wishing to appeal a decision by the director of public services or county health officer shall file the appeal with the clerk of the board of health within fifteen (15) days of the decision by the director of public services or county health officer. The request shall be accompanied by

the appropriate fee as set forth by the county board of health in a fee resolution. All parties shall be notified of the date of review by the board.

The board of health shall conduct a public hearing which shall be scheduled within fifteen (15) days of the notice of appeal and all parties shall be given notice of the date and time of hearing. Evidence may be presented as set forth above.

The board's decision, after public hearing on the appeal, shall be held conclusive unless an application is made to a court of competent jurisdiction within thirty (30) days of final board action. (Ord. 234 § 5, 1997)