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### INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE WASHINGTON STATE ENVIRONMENTAL POLICY ACT PROCESS

This fact sheet is designed to help Federal agencies comply with the [National Environmental Policy Act](#) (NEPA) when a Federal proposed action in Washington also involves a state or local agency action and requires compliance with the State of Washington's [State Environmental Policy Act](#) (SEPA). When a proposed NEPA action also requires compliance with SEPA, it is critical that these practitioners familiarize themselves with SEPA and understand how SEPA compares to and contrasts with NEPA.

Both statutes are designed to facilitate informed decision-making and environmental review. Like NEPA, SEPA directs agencies to identify a proposed action's potential impacts, alternative courses of action, and mitigation options. The statutes also encourage public involvement in decision making and emphasize the preparation of clear and concise environmental documents. They also share common policies such as integrating environmental review with other agency review processes. This fact sheet compares SEPA ([Chapter 43.21C RCW](#)) and the SEPA Rules ([Washington Administrative Code, § 197-11-010, et seq](#)) with CEQ's regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with the Washington Department of Ecology (Department) staff when proposals trigger both Federal and state environmental review requirements. Project proponents are strongly encouraged to contact the Department in the early stages of project planning so that Federal and state environmental review processes, if applicable, can be appropriately aligned. It is important to note that the SEPA Rules conditionally authorize SEPA lead agencies to adopt applicable NEPA documents in lieu of preparing additional analysis under SEPA. [WAC 197-11-610 and WAC 197-11-630](#).

#### Introduction

SEPA requires state and local public agencies to conduct an environmental review and consider the impacts of a proposal that involves an agency action and is not exempt by statute or regulation. Proposals include applicants' or agencies' proposed actions and agencies' proposed actions or regulatory decisions in response. [WAC 197-11-060\(3\)](#) and [WAC 197-11-784](#). Actions include agency licensing, funding, or other project decisions and agency "nonproject" decisions on policies, plans, or programs. [WAC 197-11-704](#).

The SEPA Rules recommend, but do not require, that agencies provide for a pre-application conference process that permits applicants to discuss a proposal with agency staff before submitting an application. [WAC 197-11-055\(4\)](#). In determining whether an environmental review is required under SEPA, agencies must: (1) define the total proposal; (2) identify all agency actions required for the proposal; and (3) determine whether the proposal or agency action is categorically exempt or otherwise exempt by statute or regulation. [WAC 197-11-060](#).



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[WAC 197-11-305](#) and [WAC 197-11-800](#); see also [Chapter 43.21C RCW](#) and [WAC 197-11-810 through 875](#).

If the proposal or agency action is not categorically exempt or otherwise exempt, SEPA applies and the lead agency must evaluate the proposal's likely environmental impacts by using an Environmental Checklist (EC). [WAC 197-11-315](#). The lead agency then must determine whether the adverse environmental impacts of the proposal would likely be significant and issue a threshold determination. [WAC 197-11-330](#). If the project is not likely to have a significant adverse environmental impact, the agency must issue a Determination of Nonsignificance (DNS). [WAC 197-11-340](#). If the project is likely to have a significant adverse environmental impact, the lead agency must issue a Determination of Significance (DS) and begin the process of preparing an Environmental Impact Statement (EIS). [WAC 197-11-360](#).

### Key Points of Comparison

The table below compares NEPA terms and procedural requirements to SEPA terms and the [Washington Administrative Code, § 197-11-010, et seq.](#)

NEPA	SEPA
	Specific Statutory Exemptions in <a href="#">Chapter 43.21C RCW</a> , including RCW 43.21C.210-227 and RCW 43.21C.400, among others
	Categorical Exemptions, <a href="#">RCW 43.21C.031(1)</a> , <a href="#">RCW 43.21C.110(1)(a)</a> , <a href="#">RCW 43.21C.229</a> , <a href="#">RCW 43.21C.450</a> , and <a href="#">WAC 197-11-800 through WAC 197-11-890</a>
Categorical Exclusion (CE), <a href="#">40 CFR 1508.4</a> , <a href="#">40 CFR 1507.3</a>	N/A
Environmental Assessment, <a href="#">40 CFR 1508.9</a> , <a href="#">40 CFR 1501.3</a>	N/A
Notice of Intent, <a href="#">40 CFR 1508.22</a>	Scoping notice, <a href="#">WAC 197-11-360</a>
Draft Environmental Impact Statement (DEIS), <a href="#">40 CFR 1502</a> , <a href="#">40 CFR 1508.11</a>	Draft Environmental Impact Statement (EIS), <a href="#">WAC 197-11-455</a>
Final Environmental Impact Statement (FEIS), <a href="#">40 CFR 1502</a> , <a href="#">40 CFR 1508.11</a>	Final EIS (FEIS), <a href="#">WAC 197-11-460</a>
Finding of No Significant Impact (FONSI), <a href="#">40 CFR 1508.13</a>	Determination of Nonsignificance (DNS), <a href="#">WAC 197-11-340</a>
Record of Decision, <a href="#">40 CFR 1505.2</a>	N/A

The bullets below provide a general comparison of processes:



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- One of the most important procedural steps under SEPA involves the complete and accurate identification of the total proposal, which must include the interdependent activities and decisions of all private parties and agencies with jurisdiction. This step applies to all environmental documents required under SEPA. [WAC 197-11-060\(3\)](#).
- Under NEPA, each agency must develop and maintain a list of those actions specific to its operations that are categorically excluded from NEPA. [40 CFR 1507.3](#) and [1508.4](#). In contrast, the SEPA Rules list categorical exemptions from threshold determination and EIS requirements that apply to all state and local agencies. [WAC 197-11-800](#); see [WAC 197-11-305](#). There is some flexibility provided to cities and counties for establishing higher exemption thresholds for “minor” construction projects. [WAC 197-11-800\(1\)](#). SEPA lists additional nonproject actions that are categorically exempt. [RCW 43.21C.450](#).
- Other exemptions in the SEPA Rules apply to activities of specific agencies. See [WAC 197-11-810](#) through [WAC 197-11-875](#).
- Under SEPA, Federal licensing, funding, or other projects are considered “private” proposals for the purpose of determining the SEPA lead agency. (The SEPA rules define an “agency” as a State or local agency, [WAC 197-11-714\(1\)](#), and a “private project” as a proposal primarily initiated or sponsored by an individual or entity other than an agency. [WAC 197-11-780](#).) Local government agencies are typically designated as the SEPA lead agency for private projects if there is a corresponding local permit or approval for the project. See [WAC 197-11-928](#) through [WAC 197-11-936](#).
- The Department has a standard form, the Environmental Checklist (EC), which all agencies must complete for all project proposals that are not categorically exempt from SEPA to make the threshold determination of significance. [WAC 197-11-960](#). SEPA’s EC, unlike the EA under NEPA, does not require the agency to list and consider alternative courses of action. [40 CFR 1508.9](#).
- A threshold determination must be made within 90 days after the application and supporting documentation are complete, although an applicant may request a 30 day extension. [RCW 43.21C.033\(a\)](#).
- Under NEPA, in certain limited circumstances, a Federal agency must make a finding of no significant impact (FONSI) available for a 30-day public review before making a final determination whether to prepare an EIS or taking action. [40 CFR 1501.4\(e\)\(2\)](#). Similarly, for certain DNSs, SEPA requires a 14-day period prior to agency action. [WAC 197-11-070\(2\)](#) and [WAC 197-11-340\(2\)\(a\)](#).
- Under SEPA, the lead agency must issue a Final EIS within 60 days after the comment period closes on the Draft EIS unless the proposal is unusually large, the environmental impacts are unusually complex, or extensive changes are needed to respond to public comments. [WAC 197-11-460](#).
- The NEPA EIS process ends when a Federal agency issues a Record of Decision (ROD) explaining whether and how it will proceed with the proposal after a 30-day review period from the notice of availability of the Final EIS. [40 CFR 1505.2](#) and [1506.10\(b\)\(2\)](#). Under SEPA, there is no requirement that a state or local agency issue a



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document similar to a ROD. Instead, an agency must wait seven days before taking action. [WAC 197-11-070\(2\)](#) and [WAC 197-11-460](#).

- The NEPA and SEPA processes may be integrated. If a NEPA EIS is completed first, the SEPA lead agency may issue a DS and adopt the NEPA EIS in lieu of preparing a SEPA EIS. While the Federal ROD need not be issued before a NEPA EIS is adopted under SEPA, the NEPA EIS cannot have been found “inadequate” by a court, EPA, or CEQ. [WAC 197-11-610\(3\)](#).
- If a NEPA EA/FONSI is completed first, the SEPA lead agency may issue a DNS and adopt the EA in lieu of preparing an Environmental Checklist (EC). [WAC 197-11-610\(2\)](#). SEPA requires a minimum 14-day comment period on the DNS, [WAC 197-11-340\(c\)](#), and additional information and analysis may be included in the DNS or added to the EA in the form of an Addendum.
- Alternatively, the NEPA and SEPA processes may be concurrent leading to issuance of a joint NEPA/SEPA EIS or a combined EA/FONSI/DNS by the relevant agencies.
- SEPA expressly authorizes agencies to deny or condition a proposal based on the impacts addressed in the environmental documents. [RCW 43.21C.060](#).

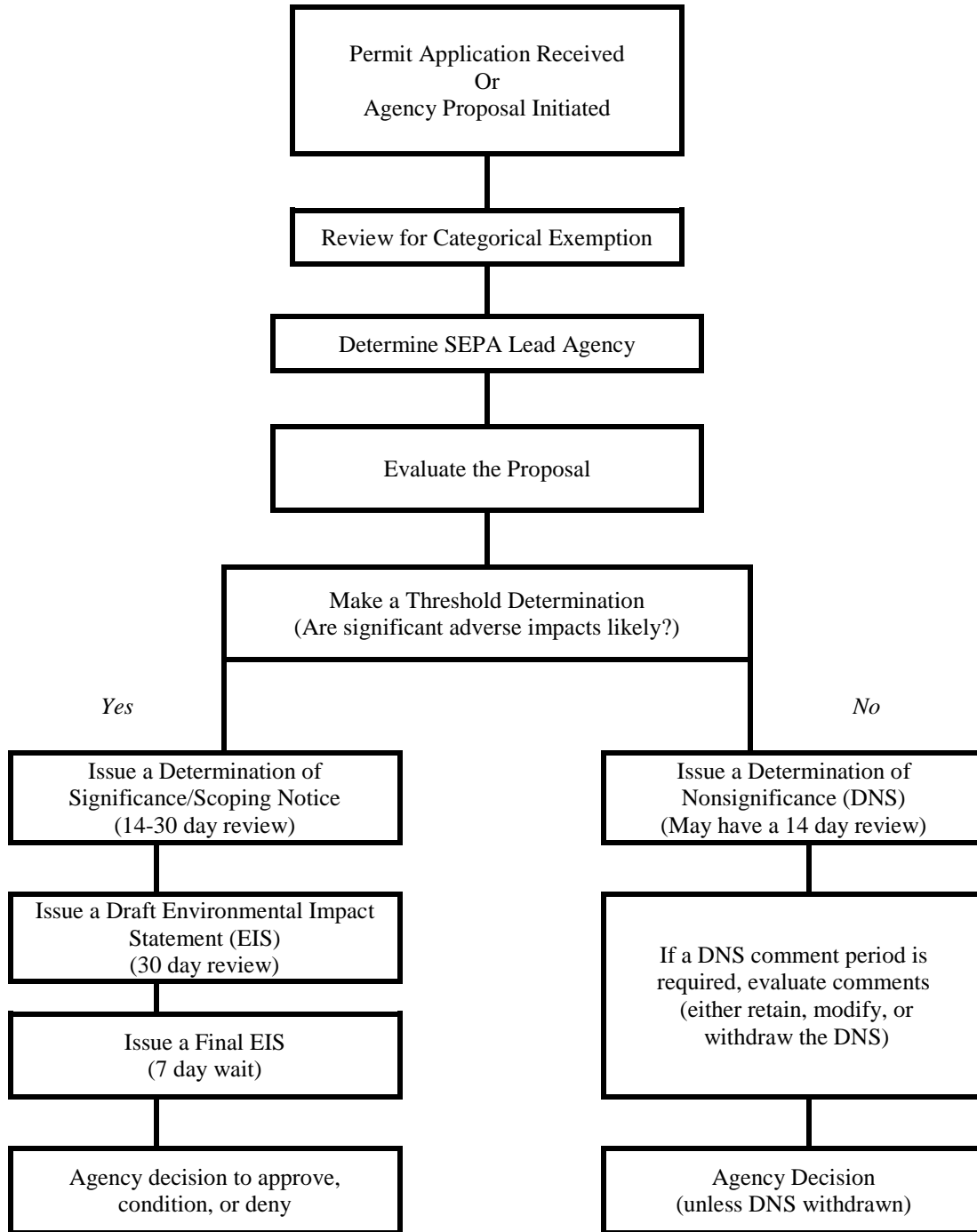
### Contact Information and Resources

- Annie Szvetecz, SEPA Policy Lead  
(360) 407-6925  
aszv461@ecy.wa.gov
- SEPA Program website: <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>
- SEPA Contact Information:
  - (360) 407-6922
  - [sepahelp@ecy.wa.gov](mailto:sepahelp@ecy.wa.gov)
- SEPA FAQ: <http://www.ecy.wa.gov/programs/sea/sepa/faq.htm>
- SEPA Handbook: <http://www.ecy.wa.gov/programs/sea/sepa/handbk/hbtoc.html>



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**State Environmental Policy Act Review Process<sup>1</sup>**



<sup>1</sup> This Flowchart and the "Summary of the SEPA Process" Table are adapted from Washington Department of Ecology, SEPA Workshops and Trainings (Oct. 2015), SEPA Process Flowchart and Table 1, available at: [http://www.ecy.wa.gov/programs/sea/sepa/docs/Spokane\\_2011\\_SEPA\\_Process\\_Flowchart\\_and\\_Table\\_1.pdf](http://www.ecy.wa.gov/programs/sea/sepa/docs/Spokane_2011_SEPA_Process_Flowchart_and_Table_1.pdf).




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## Summary of the SEPA Process

<b>Is SEPA required?</b>	Is the entire proposal defined?	WAC 197-11-060
	Is there an agency “action”?	WAC 197-11-704
	Is the action “categorically exempt”?	WAC 197-11-305 and 800 through 880
	Has SEPA already been completed?	WAC 197-11-164, 600, and 660
<b>Who is lead agency?</b>	Identify the “lead agency.”	WAC 197-11-922 through 944
<b>Are there likely to be impacts?</b>	Review the checklist and identify likely significant adverse environmental impacts.	WAC 197-11-330
<b>Are there existing documents that analyze the impacts?</b>	Identify documents that analyze probable impacts of the proposal.	WAC 197-11-600 and 330(2)(a)
<b>Can impacts be mitigated?</b>	Identify mitigation required by development regulations, and other local and state laws.	WAC 197-11-158, and 330(1)(c)
	Is the applicant willing to change the proposal to reduce impacts?	WAC 197-11-350
	Consider using SEPA substantive authority for other impacts not adequately addressed.	WAC 197-11-660
<b>After application of identified mitigation, is the proposal likely to have any significant adverse environmental impact?</b>	If no, issue a determination of nonsignificance (which may include mitigation measures).	WAC 197-11-340, 350, and 355
	If yes, issue a determination of significance, and either include an adoption notice or begin the EIS process.	WAC 197-11-360 and Part Four
<b>How is SEPA used in decision-making?</b>	Mitigation under SEPA must be included as permit conditions, or in changes to permit applications for the proposal.	WAC 197-11-660
	Projects may be denied if identified significant adverse impacts cannot be mitigated.	