



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: December 20, 2022

TIME: 8:41 AM

WSR 23-01-119

**Agency:** Department of Ecology, AO #22-08

**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:** The Washington State Department of Ecology is adopting expedited rulemaking at the direction of the Washington legislature to amend Chapter 197-11 WAC, SEPA Rules. This rulemaking will incorporate amendments and new language in Chapter 43.21C RCW, State Environmental Policy Act (SEPA) and amends other sections of the rule to align with legislative directives.

Ecology is amending and adding new language the following sections of Chapter 197-11 WAC:

- WAC 197-11-800(1)(b)(c) and (d) - *Minor new construction - Flexible thresholds*
- WAC 197-11-444(2)(c) - *Elements of the Environment*
- WAC 197-11-960 - *Environmental Checklist*
- WAC 197-11-172(1)(b) - *Planned actions - Project review*
- WAC 197-11-164(1)(b) - *Planned actions - Definition and criteria*

The majority of these changes reflect legislative directives in SSB 5818, Housing Construction – State Environmental Policy Act and Growth Management Act, Chapter 246, 2022 laws of the regular session to be completed by December 2022. Other changes align the rule with state statute and fulfill past legislative directives.

The scope of the SEPA rule amendments and new language in Chapter 197-11 WAC incorporate language directly from SEPA statute, Chapter 43.21C RCW.

We are making the following state SEPA rule changes:

- Creating a new categorical exemption level for single-family home construction for cities and towns fully planning under GMA in RCW 36.70A.040;
- Including four attached single-family residential units in WAC 197-11-800 (1)(b)(i);
- Increased flexibility for multifamily residential exemption in cities and towns fully planning under the state Growth Management Act in RCW 36.70A.040;
- Incorporating new procedural standards for raising categorical exemption levels in WAC 197-11-800 that require outreach to the Washington State Department of Transportation;
- Removing parking as a required consideration for analyzing traffic impacts for proposals;
- Updating planned actions, WAC 197-11-164, to be consistent with state SEPA law, Chapter 43.21C RCW; and
- Fixing typographical errors in the title of WAC 197-11-800.

**Citation of rules affected by this order:**

New:

Repealed:

Amended: Chapter 197-11 WAC

Suspended:

**Statutory authority for adoption:** RCW 43.21C.110

**Other authority:** Chapter 246, 2022 laws of the regular session

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 22-21-138 on October 19, 2022 (date).

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

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

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**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	5	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 on 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	___	Repealed	___
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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	___

**Date Adopted:** 12/20/2022

**Name:** Laura Watson

**Title:** Director

**Signature:**

*Heather Battlett  
for Director Watson*