



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**Concise Explanatory Statement**  
**Chapter 197-11 WAC**  
**State Environmental Policy Act (SEPA)**  
**Rules**

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*Summary of rulemaking and response to comments*

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## Publication and Contact Information

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For more information contact:

Shorelands and Environmental Assistance  
P.O. Box 47600  
Olympia, WA 98504-7600

Phone: 360-407-6600

Washington State Department of Ecology - [www.ecy.wa.gov](http://www.ecy.wa.gov)

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Union Gap 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

Ecology publishes this document to meet the requirements of the Washington State Administrative Procedure Act (RCW 34.05.325)

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# **Concise Explanatory Statement**

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## **Chapter 197-11 WAC State Environmental Policy Act (SEPA) Rules**

Shorelands and Environmental Assistance Program  
Washington State Department of Ecology  
Olympia, Washington 98504-7600

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# Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: State Environmental Policy Act (SEPA) Rules  
WAC Chapter(s): 197-11  
Adopted date: June 2, 2016  
Effective date: July 3, 2016

To see more information related to this rulemaking or other Ecology rulemakings please visit our web site: <http://www.ecy.wa.gov/laws-rules/index.html>

## Reasons for Adopting the Rule

This rulemaking is specifically mandated and is per the direction of Chapter 144, Laws of 2015 Regular Session (SHB 1851) and to update and modernize State Environmental Policy Act (SEPA) rules.

- Creating a SEPA categorical exemption for the replacement of a City, Town or County owned structurally deficient bridge.
- Review and update other minor transportation related exemptions as needed.
- Make technical clarifications, correct errors, and improve readability.

# Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There is one difference between the proposed rule filed on February 17, 2016 and the adopted rule filed on June 2, 2016.

Ecology made this changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.

The following content describes the change and Ecology's reason for it:

Correction to WAC 197-11-960 (13) (a) – where the phrase “located on or near the site” appears twice. This is an error made during 2014 rulemaking and it is being corrected by striking the duplicative phrase from the WAC so it only appears once in the question.



# Response to Comments

## Description of comments:

Ecology has summarized and organized the comments by rule section. If several comments made from multiple parties were related and on the same topic, one response was made. The tables below summarize the comment on each rule section and the party or parties that provided comment. Responses are directly to the right of each comment.

All of the complete comments (and any attachments) in Appendix A were received by the agency during the formal comment period, and have not been edited in any way. Appendix A contains the written comments and Appendix B contains the transcripts, including comments from the public hearings.

## Commenter identification:

Ecology accepted comments from February 17, 2016 until April 1, 2016.

This section provides summarized comments that we received during the public comment period and our responses. (RCW 34.05.325(6) (a) (iii)). We have also provided an index to identify the specific comment each commenter made and the corresponding summary and response in the tables below.

The table below lists the names of organizations or individuals who submitted a comment on the rule proposal and where you can find Ecology's response to the comment(s).

<b>Number assigned</b>	<b>Commenter</b>	<b>Letter dated</b>
1	City of Seattle – Department of Transportation	March 16, 2016
2	City of Tacoma – Daniel Soderland	March 25, 2016
3	Stephanie Kramer	March 18, 2016
4	Association for Washington Archeology	April 1, 2016
5	Washington State Department of Archeology and Historic Preservation	March 31, 2016
6	Washington Trust for Historic Preservation	April 1, 2016
7	Applied Preservation Technologies	March 4, 2016
8	City of Tacoma – Chris Larson	March 21, 2016
9	City of Renton	April 1, 2016

**Comments and responses by WAC section**

<b>WAC Section</b>	<b>Comment Summary</b>	<b>Response to comments</b>
197-11-030	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-172	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-610(2)(b)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800 (2)(b & c)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800 (2)(d)(i)	City of Seattle requests adding: <i>restricting motor vehicle access (1a)</i>	<b>1a:</b> Ecology believes that the current rule language already provides for this. The items shown in 197-11-800(2)(d)(i) are examples of safety structures and equipment – not a complete list of all options that can be used. We believe the proposed language provides the appropriate amount of specificity.
197-11-800 (2)(d)(ii)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800 (2)(d)(ix)	City of Seattle requests adding: <i>and conversions of existing rights-of-way to public gathering space (1b)</i>	<b>1b:</b> Thank you for the comment. Ecology believes that this already addressed in rule changes being adopted in WAC 197-11-800 (2)(i) “ <i>converting public right of way</i> ”.
197-11-800 (2)(d)(vi)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800 (23)(f) & (24)(h)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800 (26)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b>	<b>2c:</b> Thank you for the comment.
197-11-800(27)	The Seattle Dept. of Transportation fully supports this proposed update. <b>(1c)</b>	<b>1c, 2a &amp; 8a:</b> Thank you for the comments.
	The City of Tacoma fully supports this proposed change. <b>(2a and 8a)</b>	
	Concern that many of the bridges in question will be over 50 years old and by definition, historic. The Department of Archeology and Historic Preservation (DAHP) should be consulted about each bridge before work begins. <b>(3a, 4a,)</b>	<b>3a, 4a:</b> Thank you for the comments. The majority of city, town or county owned structurally deficient bridge replacement projects are going to have a state or federal funding nexus or trigger a federal permit. For these projects cultural and historic resource concerns are addressed through the Federal Section 106 (review

		<p>under the National Historic Preservation Act) process or at the State level review under Governor’s Executive Order 05-05.</p> <p>Nothing in the SEPA exemption language provides an exemption from the requirements of other local, state and federal permits and regulations.</p>
	<p>Concern over proximity of bridge replacement projects to water and potential damage to archeological sites and/or burials. <b>(3b, 4a)</b></p>	<p><b>3b, 4a:</b> Thank you for the comments. The majority of city, town or county owned structurally deficient bridge replacement projects over water will trigger a federal permit from the Army Corp. Part of the Army Corp permitting process includes a Section 106 review.</p> <p>Nothing in the SEPA exemption language provides an exemption from the requirements of other local, state and federal permits and regulations.</p>
	<p>If the Department of Archeology and Historic Preservation (DAHP) and the Tribes are not consulted, and archeological sites are disturbed, the local government will incur additional costs in potential litigation with tribes and penalties assessed by DAHP. <b>(3c, 4b)</b></p>	<p><b>3c, 4b:</b> Thank you for your comments.</p> <p>Nothing in the SEPA exemption language provides an exemption from the requirements of other local, state and federal permits and regulations.</p>
	<p>Proposing new language to the exemption to address concerns about the potential loss to cultural and historic properties. <b>(5a, 6a)</b></p>	<p><b>5a, 6a:</b> Thank you for your comments. The proposed rule language is at the direction of Substitute House Bill 1851 (SHB 1851) which provides a very narrow framework for the rule language to be adopted by Ecology. In addition Ecology was also directed by SHB 1851 to adopt the language similar to the exemption created in WAC 197-11-800 (26) for the Washington State Department of Transposition during SEPA rulemaking in 2014.</p> <p>The language proposed here is outside the scope of the rulemaking as directed by SHB 1851.</p>
	<p>The City of Renton is pleased that the rule proposes to create a categorical exemption for</p>	<p><b>9a:</b> Thank you for the comment.</p>

	<p>the replacement of structurally deficient bridges. <b>(9a)</b></p> <p>City of Renton request that the definition of Structurally Deficient be amended or clarified to allow for the inclusion of short span/pedestrian bridges that are not National Bridge Inventory Standards eligible due to their length (less than 20 foot span). <b>(9b)</b></p>	<p><b>(9b)</b> Thank you for your comments. The proposed rule language is at the direction of SHB 1851 which provides a very narrow framework for the rule language to be adopted by Ecology.</p> <p>SHB 1851 provides the definition of structurally deficient. This exemption is intended only for bridges reported to the National Bridge Inventory list of structurally deficient bridges and having a rating of a 4 or below for the deck, superstructure or substructure.</p>
	<p>City of Renton request clarification on whether this exemption applies to bridges spanning water bodies governed by the Washington State Dept. of Natural Resources and outside of the designated right of way. <b>(9c)</b></p>	<p><b>(9c)</b> Thank you for your comments. The proposed rule language is at the direction of (SHB 1851) which provides a very narrow framework for the rule language to be adopted by ecology.</p> <p>This exemption is only applicable to a structurally deficient bridge replacement that occurs within the “existing right of way”. Any proposed project that does not meet this criteria would trigger a SEPA review.</p>
197-11-830	<p>The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b></p>	<p><b>2c:</b> Thank you for the comment.</p>
197-11-960 (13)	<p>Question 13(a) in the Environmental Checklist, the phrase “located on or near the site” is repeated twice. One of the two occurrences should be deleted for clarity. <b>(7a)</b></p> <p>The Seattle Dept. of Transportation fully supports this proposed update. <b>(2c)</b></p>	<p><b>7a:</b> Thank you for your comment, Ecology has made this correction.</p> <p><b>2c:</b> Thank you for the comment.</p>

# **Appendix A: Copies of all written comments**



City of Seattle  
Edward B. Murray, Mayor

Department of Transportation  
Scott Kubly, Director

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March 16, 2016

Department of Ecology – SEPA Unit  
Attn: Fran Sant  
PO Box 47703  
Olympia, WA 98504-7600

Dear Ms. Sant:

Thank you for the opportunity to comment on the proposed amendments to the State Environmental Policy Act (SEPA), Chapter 197-11 WAC, and for allowing us to participate in the Advisory Committee Meetings held during the final quarter of 2015. These amendments will streamline the environmental review process for projects that make operational changes to existing transportation networks, allowing jurisdictions throughout the state to more efficiently implement projects that increase public safety, reduce traffic congestion, and improve communities' use of the public right-of-way.

The amendments incorporate most of the revisions that the Seattle Department of Transportation (SDOT) submitted to the Advisory Committee for consideration but do not cover our request to clarify exemptions for closing public rights-of-way to motor vehicle traffic or for converting public rights-of-way to public gathering places. Therefore, we respectfully propose additional modifications, *in underlined italics*, to your proposed amendments as follows:

1. Rule section 800(2)(d)(i)

A Safety structures and equipment: Such as pavement marking, adding or removing turn restrictions, speed limit designations, physical measures to reduce motor vehicle traffic speed or volume, restricting motor vehicle access, freeway surveillance and control systems, railroad protective devices (not including grad-separated crossings), grooving, glare screen, safety barriers, energy attenuators;

2. Rule section 800(2)(d)(ix)

B Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths including sidewalk extensions, and conversion of existing rights-of-way to public gathering space, but not including additional automobile lanes.

Other than the two additional revisions proposed above, SDOT fully supports the following proposed updates and clarifications:

1. The Structurally Deficient Bridges exemption for cities, towns, and counties under WAC 197-11-800(27);
2. The revisions for other transportation related categorical exemptions made to WAC 197-11-800(2)(b), 800(2)(c), 800(2)(d)(ii), and 800(d)(vi); and
3. The minor technical corrections and clarifications made to WAC 197-11-030, 172, 610(2)(b), 800(23)(f), 800(24)(h), 800(26), 830, and 960.

Thank you again for the opportunity to provide input to your rulemaking process. We look forward to continuing to work with you on this effort.

Sincerely,



Mark Mazzola  
Environmental Manager  
Seattle Department of Transportation

Sant, Fran (ECY)

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From: Soderlind, Daniel <DSODERLI@ci.tacoma.wa.us>  
Sent: Friday, March 25, 2016 10:04 AM  
To: ECY RE SEPA Rulemaking  
Cc: Kingsolver, Kurtis; Larson, Chris  
Subject: Chapter 197-11 WAC State Environmental Policy Act (SEPA) Rules

Department of Ecology  
Attention: Fran Sant

I manage the City of Tacoma's Bridge program and fully support this proposed change to Chapter 197-11 WAC.

The City of Tacoma currently has 8 bridges that fall into this category (structurally deficient) and this new exemption provides the type of support needed by local agencies to maintain our bridges. Please let me know if you need any other action on our part to support this rule change.

Sincerely,

Dan Soderlind, P.E.  
City of Tacoma  
253-591-5263 Desk  
253-377-1952 Cell



Sant, Fran (ECY)

From: Stephenie Kramer <stephenie.kramer@gmail.com>  
Sent: Friday, March 18, 2016 12:26 PM  
To: Sant, Fran (ECY)  
Subject: Comment on proposed rule changes to WAC 197-11-800 (27) Bridge Exemption

Dear Ms. Sant:

I am writing to object to the proposed rule changes to WAC 197-11-800 (27), which would exempt locally owned, structurally deficient bridges from SEPA review. There is no question that public safety is important, as is utilizing public dollars responsibly. However, exempting the bridges from a full SEPA review will harm protected cultural resources and have the potential to cost the public more money in the long term.

Even if the bridges are exempted from SEPA review, issues raised under Question 13 should be substantively reviewed, namely, those concerning historic bridges and archaeological resources.

- A 1. Many of the bridges in question will be over 50 years old and will be, by definition, historic. Some of them may be listed on the local landmarks register, or the National Register of Historic Places. The architectural significance of these bridges should be addressed before they are altered or removed. The Washington State Department of Archaeology and Historic Preservation (DAHP) and the local historic commission should be consulted about each bridge before work begins. Public safety and architectural integrity can both be achieved by this process.
- B 2. The primary environmental factor associated with pre-contact, Native American archaeological sites is proximity to water. Many archaeological sites and Indian burials are located under and around bridge approaches, on both sides, due to their proximity to water. Many of these sites may have been damaged when the bridges were built originally. Archaeological sites and Indian burials are protected by state statutes, RCWs 27.53 and 27.44. Permits from DAHP are required to alter or conduct construction on these cultural resources (RCW 27.53.60 and WAC 25-48-060). Before any bridges are repaired, retrofitted, altered or demolished, DAHP and affected Tribes should be consulted regarding the presence of archaeological sites and/or burials.
- C 3. If DAHP and the Tribes are not consulted, and archaeological sites are disturbed, the local government will actually *incur additional costs*, in the form of archaeological damage assessments, mitigation costs, extended consultation costs, possible civil penalties from DAHP and litigation by Tribes (see RCW 27.44.040). Therefore, the proposed rule has potential to cost more public dollars than the exemption will save.

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4. Further, archaeological site review is not always covered by local project review ordinances, so the "Supplement Sheet for Non-Project Actions" document is flawed as well, because it states that impacts will be reviewed under "other authorities," which is frequently not the case at the local level.

In sum, if bridge work is to be exempted from SEPA, please include a required procedure by which local governments shall consult with DAHP, the affected Tribes, and the local historic commission, in lieu of a public process.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,

Stephenie Kramer  
Seattle

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**Sant, Fran (ECY)**

**From:** Griffith, Greg (DAHP)  
**Sent:** Thursday, March 31, 2016 1:10 PM  
**To:** ECY RE SEPA Rulemaking; Sant, Fran (ECY)  
**Cc:** Chris Moore (cmoore@preservewa.org); Williams, Scott; Griffith, Greg (DAHP)  
**Subject:** Comments on proposed SEPA Streamlining (DAHP log 2016-03-02255)

Fran, the Department of Archaeology and Historic Preservation (DAHP) appreciates the opportunity to review and provide comments to the Department of Ecology's proposed amendments to Chapter 197-11 WAC regarding the State Environmental Policy Act (SEPA), specifically the language to create a categorical exemption for the replacement of a City, Town or County owned structurally deficient bridge. DAHP staff including the State Historic Preservation Officer (SHPO) has reviewed the draft language. As a result of our review, we have concerns about the potential for damage or loss of cultural resources and/or historic bridges that might occur as a result of this exemption. In response, following is DAHP's proposed new language for the proposed exemption.

(27) Structurally deficient city, town and county bridges. The repair, reconstruction, restoration, retrofitting, or replacement of a structurally deficient city, town or county bridge shall be exempt as long as the action:

- (a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, soil disturbance prism, and location as the original except to meet current engineering standards or environmental permit requirements; and
- (b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility; and
- (c) Interested and affected tribes and the department of archaeology and historic preservation have been afforded from 14 to 30 days opportunity to review and provide comments in the absence of any other federal and/or state assistance; and
- (d) Is not on or adjacent to a known archaeological site or cemetery; and
- (d) The action does not result in the demolition or alteration of bridges listed in or eligible for listing in a federal, state or local register of historic places.

"Structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

Thank you for the opportunity to provide comments. Please feel free to contact me should you have any questions.

**Greg Griffith**  
Deputy State Historic Preservation Officer  
Washington State/Department of Archaeology & Historic Preservation  
[Greg.Griffith@dahp.wa.gov](mailto:Greg.Griffith@dahp.wa.gov)  
360-586-3073 (desk)  
360-890-2617 (mobile)  
POB 48343/Olympia.98504-8343  
My regular office hours are Monday through Friday, 8:00 am to 5:00 pm  
*Get involved! Check out Washington's State Historic Preservation Plan 2014-19: Getting the Future Right at [www.dahp.wa.gov](http://www.dahp.wa.gov)*

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**Sant, Fran (ECY)**

**From:** Chris Moore <cmoore@preservewa.org>  
**Sent:** Friday, April 01, 2016 4:21 PM  
**To:** Sant, Fran (ECY); ECY RE SEPA Rulemaking  
**Cc:** Griffith, Greg (DAHP); Williams, Scott  
**Subject:** RE: SEPA Rulemaking hearing on March 23rd and close of comment period on April 1st

Hi Fran,

Please accept this email as comments from the Washington Trust for Historic Preservation related to the proposed categorical exemption for replacing structurally deficient bridges owned by local jurisdictions. Underlined sections indicate language we recommend should be added.

(27) Structurally deficient city, town and county bridges.

The repair, reconstruction, restoration, retrofitting, or replacement of a structurally deficient city, town or county bridge shall be exempt as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility; and

(c) Interested and affected tribes and the department of archaeology and historic preservation have been afforded from 14 to 30 days opportunity to review and provide comments in the absence of any other federal and/or state assistance; and

(d) Is not on or adjacent to a known archaeological site or cemetery; and

(e) The action does not result in the demolition or alteration of bridges listed in or eligible for listing in a federal, state or local register of historic places.

"Structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

In providing comments, we support the comments previously submitted by DAHP and those submitted by the Association for Washington Archaeology. Specifically, the new sections (c) and (d) as noted above are needed to address archaeological sites. The ability of cities and counties to determine in-house whether or not archaeology sites may exist at a given location varies greatly among jurisdictions. DAHP and affected tribes must be afforded the opportunity to provide this review to determine the presence of such sites on or adjacent to a proposed project.

Regarding (e), this language is consistent with language we recommended a couple years back as part of the first phase of SEPA rulemaking. Ultimately, this language did not make it into the final rule as a requirement for cities and towns raise the exempt levels for minor new construction. But in order to do so, cities and counties must document how

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specific development regulations and applicable state and federal laws provide adequate protections for historic and cultural resources when exemption levels are raised.

As I read the proposed rule related to bridges, this would be in place immediately and would serve as the rule for all cities and counties, regardless of whether they were raising their flexible thresholds for minor new construction. In other words, this proposed rule creates a scenario where historic bridges potentially eligible for inclusion in a historic register are demolished without any consideration to their historic significance. We oppose any rule that fails to provide for at least some level of historic review.

Thank you for the opportunity to comment.

Best,  
Chris

CHRIS MOORE | EXECUTIVE DIRECTOR  
WASHINGTON TRUST FOR HISTORIC PRESERVATION  
STIMSON-GREEN MANSION  
1204 MINOR AVENUE  
SEATTLE, WA 98101  
206.624.9449 (O)  
206.930.5067 (C)  
206.624.2410 (F)  
[cmoore@preservewa.org](mailto:cmoore@preservewa.org)  
[www.preservewa.org](http://www.preservewa.org)



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**From:** Sant, Fran (ECY) [mailto:[fsan461@ecy.wa.gov](mailto:fsan461@ecy.wa.gov)]  
**Sent:** Friday, March 18, 2016 9:43 AM  
**To:** [chelland@bellevuewa.gov](mailto:chelland@bellevuewa.gov); [mike.podowski@seattle.gov](mailto:mike.podowski@seattle.gov); [kgurol@ci.sammamish.wa.us](mailto:kgurol@ci.sammamish.wa.us); Wilson, Jeff (COM); [Clay.white@snoco.org](mailto:Clay.white@snoco.org); [settr@foster.com](mailto:settr@foster.com); [alane@cairncross.com](mailto:alane@cairncross.com); [schnp@foster.com](mailto:schnp@foster.com); [rich@mhseattle.com](mailto:rich@mhseattle.com); [newman@bnd-law.com](mailto:newman@bnd-law.com); [geraldsteel@yahoo.com](mailto:geraldsteel@yahoo.com); [ann\\_aagaard@frontier.com](mailto:ann_aagaard@frontier.com); [allenr@skagitonians.org](mailto:allenr@skagitonians.org); [mkrossi@eppardvision.org](mailto:mkrossi@eppardvision.org); [Marythompson1@comcast.net](mailto:Marythompson1@comcast.net); Chris Moore; Roalkvam, Carol; [jmarvin@yakama.com](mailto:jmarvin@yakama.com); [dwilliams@tulaliptribes-nsn.gov](mailto:dwilliams@tulaliptribes-nsn.gov); [bryce@futurewise.org](mailto:bryce@futurewise.org); Schroeder, Carl; [BrandonH@AWB.ORG](mailto:BrandonH@AWB.ORG); [MikeE@awb.org](mailto:MikeE@awb.org); [Will.Hall@co.snohomish.wa.us](mailto:Will.Hall@co.snohomish.wa.us); [Pcrane@ci.everett.wa.us](mailto:Pcrane@ci.everett.wa.us); [aronan@stillaguamish.com](mailto:aronan@stillaguamish.com); [Jeanette.McKague@warealtor.org](mailto:Jeanette.McKague@warealtor.org); [nancy.atwood@pse.com](mailto:nancy.atwood@pse.com); [dwarren@wpuda.org](mailto:dwarren@wpuda.org); [collins.sprague@avistacorp.com](mailto:collins.sprague@avistacorp.com); [christine@olygov.com](mailto:christine@olygov.com); [legal@stillaguamish.com](mailto:legal@stillaguamish.com); [Lneebing@perkinscoie.com](mailto:Lneebing@perkinscoie.com); [andy.markos@pse.com](mailto:andy.markos@pse.com); [robin.bekkedahl@avistacorp.com](mailto:robin.bekkedahl@avistacorp.com); [apears1@co.pierce.wa.us](mailto:apears1@co.pierce.wa.us); [darcy@wecprotects.org](mailto:darcy@wecprotects.org); Wilson, Jeff (COM); [dpvyvyan@att.net](mailto:dpvyvyan@att.net); Brooks, Allyson (DAHP); [lmerrill@wacounties.org](mailto:lmerrill@wacounties.org); [klyste@stillaguamish.com](mailto:klyste@stillaguamish.com); [john.rothlin@avistacorp.com](mailto:john.rothlin@avistacorp.com); [mark.mazzola@seattle.gov](mailto:mark.mazzola@seattle.gov)  
**Cc:** Clingman, Tom (ECY); Szwetecz, Annie (ECY); McFarland, Brenden (ECY); Hanlon Brown, Erin (ECY)  
**Subject:** SEPA Rulemaking hearing on March 23rd and close of comment period on April 1st

Dear SEPA Rulemaking Advisory Committee and Interested parties,

Ecology is currently in the open comment (CR102) phase of SEPA Rulemaking and will be holding a rulemaking hearing on March 23<sup>rd</sup>. The comment period on the proposed rule closes April 1<sup>st</sup>, 2016.

For more information on the proposed rule please see: <http://www.ecy.wa.gov/programs/sea/rules/1509docs.html>

The purpose of the proposed rule is to:

Sant, Fran (ECY)

From: Mary Rossi <mkrossi@eppardvision.org>  
Sent: Friday, March 04, 2016 4:37 PM  
To: Sant, Fran (ECY); ECY RE SEPA Rulemaking  
Subject: Re: SEPA Rulemaking Update

Hi, Fran - Thank you for the information on the proposed rule.

I would like to suggest an additional correction: In the first sentence of Question #13(a) in the Environmental Checklist, the phrase "located on or near the site" is repeated twice. One of the two occurrences should be deleted for clarity.

**13. Historic and cultural preservation**

A

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

Thank you very much for your consideration and your work on the rule.

Mary Rossi, M.A.  
Program Director  
APT-Applied Preservation Technologies  
A program of the nonprofit Eppard Vision  
360.920.8908  
For the latest on our conferences, visit <http://www.theleadershipseries.info/>

On Feb 18, 2016, at 11:06 AM, Sant, Fran (ECY) <[fsan461@ECY.WA.GOV](mailto:fsan461@ECY.WA.GOV)> wrote:

Dear SEPA Rulemaking Advisory Committee and Interested parties,

Ecology filed the SEPA CR102 (Proposed Rule) on February 17, 2016. The proposed rule is now open for comment.

This rulemaking has a narrow focus on:

- Creating a new categorical exemption for the replacement of a City, Town or County owned structurally deficient bridge found in WAC 197-11-800 (27).
- Minor updates and clarifications on other transportation related categorical exemptions found in WAC 197-11-800 (2).
- Other minor updates, clarifications and technical corrections.

Ecology will hold a public hearing on March 23, 2016 and the public comment period runs until April 1, 2016.

For more information please see the rulemaking documents found here: <http://www.ecy.wa.gov/programs/sea/rules/1509docs.html>

For information on how to provide comment: <https://fortress.wa.gov/ecy/publications/documents/1606006.pdf>

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Sant, Fran (ECY)

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**From:** Larson, Chris <CLARSON@ci.tacoma.wa.us>  
**Sent:** Monday, March 21, 2016 8:52 AM  
**To:** ECY RE SEPA Rulemaking  
**Subject:** SEPA Bridge Exception

Dear Fran Sant,

The City of Tacoma appreciates the opportunity to comment on the Department of Ecology's proposal to create a new exemption to help streamline and remove barriers in the replacement and repair of old municipal bridges by explicitly exempting the projects from SEPA review. Current administrative regulations exempt some work related to bridges, but only when the project is conducted by the Washington Department of Transportation and the bridge is "in operation." WAC 197-11-200(26). The proposed WAC 197-11-200(27) creates a new categorical exemption for structurally deficient city, town and county bridges, regardless of whether they are currently in operation.

Tacoma is very much in support of this new exemption. Tacoma currently has 8 bridges that fall into this category. This new exemption provides the type of support needed by local agencies to maintain bridges. Tacoma is currently in the design phase of repairing the Puyallup River Bridge and could use this exemption immediately upon approval.

Sincerely,

Chris E. Larson, P.E.  
Engineering Division Manager  
Office: 253-591-5538  
Cell: 253-255-7166

Denis Law  
Mayor

City of  
**Renton**



Community & Economic Development Department  
C.E. "Chip" Vincent, Administrator

April 1, 2016

Department of Ecology  
Attn: Fran Sant  
PO Box 47703  
Olympia, WA 98504-7600  
Via email: [separulemaking@ecy.wa.gov](mailto:separulemaking@ecy.wa.gov)

**SUBJECT: Comments on SEPA Rulemaking**

Dear Ms. Sant:

Thank you for the opportunity to comment on the proposed SEPA Rule Making that would create a categorical exemption for the replacement of a City, Town or County owned structurally deficient bridge. We have reviewed the proposed rule and have the following comments.

A We are pleased that the rule proposes to create a categorical exemption for the replacement of structurally deficient bridges. However, we request that the proposed definition of "Structurally deficient" in WAC 197-11-800 (27) (b) be amended or clarified to allow for the inclusion of those short span and/or pedestrian bridges that are not National Bridge Inspection Standards (NBIS) eligible due to their length (less than 20-foot span) or because the bridge is intended only for pedestrians. The new rule appears to make a distinction between NBIS eligible structures and non-eligible structures by virtue of stating "...is reported by the state to the national bridge inventory...".

B  
C In addition, we respectfully request clarification as to whether bridges spanning bodies of water governed by Washington Department of Natural Resources (WDNR) (below the Ordinary High Water line) would be exempt as they are located outside of the designated right-of-way and with the WDNR regulated area.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer T. Henning".

Jennifer T. Henning, AICP  
Planning Director

cc: Chip Vincent, CED Administrator  
Gregg Zimmerman, PW Administrator  
Vanessa Dolbee, Current Planning Manager

Leslie Betlach, Parks Planning & Nat. Res. Director  
Derek Akesson, Project Mgr, Cap. Projects/Bridge Program





## Appendix B: Transcripts from public hearings.

### SEPA Rulemaking Hearing held in Lacey on March 23, 2016 @1:30 pm

prepared by: Fran Sant

I am starting now....

I'm Elena Guilfoil, hearing's officer for this hearing. This afternoon we are to conduct a hearing on the proposed amendment for Chapter 197-11 WAC – State Environmental Policy Act.

Let the record show it's 1:43 pm on March 23, 2016 and this hearing is being held at:

- Department of Ecology headquarters in Auditorium Room 32
- 300 Desmond Drive
- Lacey, WA 98503

Notices of this hearing were published in the Washington State Register under Washington State Register Number: WSR 16-05-100 on March 2, 2016. In addition, notices of the hearing were emailed were sent to approximately 1500 interested people,

I will be calling people up to provide testimony based on the order your name appears on the sign-in sheet. Has anyone...No one has indicated that they would like to provide testimony, is that still true?

Thank you...They are shaking their heads no. Um...is there anyone on the telephone that would like to provide testimony? So...There continues to be no-one on testimony, I mean the phone...sorry.

Let the record show that two (2) people attended this public hearing. No one wanted to provide oral testimony.

If you would like to send Ecology written comments, please remember they are due April 1, 2016.

Send them to:

Department of Ecology – SEPA Unit

PO BOX 47703

Olympia, WA 98504-7600 or email them to [separulemaking@ecy.wa.gov](mailto:separulemaking@ecy.wa.gov)

360-407-6904

All testimony received along with all written comments received by April 1, 2016 will be part of the official hearing record for this proposal.

The Concise Explanatory Statement will contain the agency's response to questions and issues of concern that were submitted during the public comment period. If you would like to receive a copy but did not give us your contact information, please provide that information.

The next step is to review the comments and make a determination whether to adopt the rule. Ecology Director Maia Bellon will consider the rule documentation and staff recommendations

and will make a decision about adopting the proposal.

Adoption is currently scheduled for June 1, 2016. If the proposed rule should be adopted that day and filed with the Code Reviser, it will go into effect 31 days later.

If we can be of further assistance to you, please do not hesitate to ask or you can contact Fran Sant at 360-407-6004 if you have other questions.

On behalf of the Department of Ecology, thank you for coming. I appreciate your cooperation and courtesy. Let the record show that this hearing is adjourned at 1:47 pm – thank you very much.

# Appendix C: Citation List

**Chapter 197-11 WAC  
State Environmental Policy Act (SEPA) Rules  
AO # 15-09**

This citation list contains references for data, factual information, studies, or reports on which the agency relied in the adoption for this rule making (RCW 34.05.370(f)). At the end of each citation is a number in brackets identifying which of the citation categories below the sources of information belongs. (RCW 34.05.272).

<b>Citation Categories</b>	
1	Peer review is overseen by an independent third party.
2	Review is by staff internal to Department of Ecology.
3	Review is by persons that are external to and selected by the Department of Ecology.
4	Documented open public review process that is not limited to invited organizations or individuals.
5	Federal and state statutes.
6	Court and hearings board decisions.
7	Federal and state administrative rules and regulations.
8	Policy and regulatory documents adopted by local governments.
9	Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under other processes.
10	Records of best professional judgment of Department of Ecology employees or other individuals.
11	Sources of information that do not fit into one of the other categories listed.

1. Revised Code of Washington (RCW) 43.21C.110 – Content of state environmental policy act rules.[5]
2. RCW 36.70A – Growth Management – planning by selected counties and cities.[5]
3. RCW 90.58 – Shoreline Management Act of 1971.[5]

4. SEPA Register data found online at:  
<https://fortress.wa.gov/ecy/separ/Register/ShowRegisterTable.aspx> [9]
5. The Washington State Environmental Policy Act, A Legal and Policy Analysis, Richard L. Settle [10]