

DISCOVERY CLEAN WATER ALLIANCE

RESOLUTION NO. 2013 - 10

A RESOLUTION OF DISCOVERY CLEAN WATER ALLIANCE, ADOPTING AGENCY SEPA PROCEDURES.

WHEREAS, the Washington State Department of Ecology has adopted rules for implementation of the State Environmental Policy Act ("SEPA"); and

WHEREAS, pursuant to RCW 43.21C.120 and WAC 197-11-020, the Alliance shall adopt SEPA rules consistent with Chapter 197-11 WAC; and

WHEREAS, pursuant to WAC 197-11-904 the Alliance gave notice of adoption of its SEPA procedures on January 4, 2013 in the Columbian a newspaper of general circulation in the Alliance, and held a public hearing on the proposed SEPA procedures on January 18, 2013; now, therefore

BE IT RESOLVED by the Board of Directors of Discovery Clean Water Alliance as follows:

Section 1. Authority. The Alliance adopts this resolution under the State Environmental Policy Act ("SEPA"), RCW 43.21C.120 and WAC 197-11-904. This resolution contains the Alliance's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this chapter.

Section 2. General Requirements - Adoption by Reference. Sections 2 through 7 contain the basic requirements that apply to the SEPA process. The Alliance adopts the following sections of Chapter 197-11 WAC by reference:

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations of actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-158 GMA project review – Reliance on existing plans, laws, and regulations

- 197-11-210 SEPA/GMA integration
- 192-11-220 SEPA/GMA definitions.
- 197-11-228 Overall SEPA/GMA integration procedures.
- 197-11-230 Timing of an integrated GMA/SEPA process.
- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
- 197-11-235 Documents.
- 197-11-238 Monitoring.
- 197-11-250 SEPA/Model Toxic Control Act integration.
- 197-11-253 SEPA lead agency for MTCA action.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance for MTCA remedial actions.
- 197-11-262 Determination of significance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.

Section 3. Additional Definitions. In addition to those definitions contained in WAC 197-11-700 through WAC 197-11-799, when used in this resolution, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.
- B. "Early notice" means the Alliance's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance procedures).

Section 4. Responsible Official.

- A. The responsible official shall be the General Manager of the Administrative Lead, or the Executive Director of the Alliance if there is no Administrative Lead or designee. When the responsible official designates another person as responsible official, the responsible official shall be guided in making such designation by the nature of the proposal and the administrative decision making process normally used by the Alliance.
- B. For all proposals for which the Alliance is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement and perform any other functions assigned to the "lead agency" or "responsible official" by section 1.
- C. The Alliance shall retain all documents required by the SEPA rules and shall make them available in accordance with Chapter 42.56 RCW.

D. All decisions of the responsible official and the Alliance relating to interpretation and application of this resolution shall be accorded substantial deference.

Section 5. Lead Agency Determination and Responsibilities.

A. When the Alliance receives an application for or initiates a proposal that involves a nonexempt action, the responsible official shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency has previously determined or the responsible official is aware that another agency is in the process of determining the lead agency.

B. When the Alliance 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 Alliance is not the lead agency for a proposal, it shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The Alliance shall not 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 Alliance may conduct supplemental environmental review under WAC 197-11-600.

D. If the Alliance receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 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 15 days of receipt of the determination, or the Alliance shall petition the department of ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. The petition shall be initiated by the responsible official.

E. The responsible official is authorized to make agreements as to the lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.

F. When the Alliance is lead agency for Model Toxic Control Act ("MTCA") remedial action, the department of ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the Alliance shall jointly with the department of ecology decide which entity receives the comment letters and how copies of the comment letters will be distributed to the other agency.

Section 6. Timing Considerations.

A. The responsible official shall begin any required environmental review for proposals initiated by the Alliance at the earliest point in the planning and decision making

process when the principal features of the proposal and its probable environmental impacts are reasonably identified.

B. The responsible official shall begin any required environmental review for proposals not initiated by the Alliance no later than upon receipt of a complete application. The application shall not be complete without the required environmental documents and fees. However, the responsible official may initiate the final detailed design stage and have informal conferences with the applicant prior to the submittal of a complete application. When conducting such early environmental review, the application shall provide the responsible official with sufficient information (consistent with WAC 197-11-100 and 197-11-335) as to permit the responsible official to conduct adequate review consistent with this resolution.

C. To the extent that the Alliance establishes any advisory body for purposes of making a recommendation on a proposal to the board of directors, the responsible official shall provide such bodies with any relevant environmental documents before any final recommendation is transmitted to the board of directors.

D. Any environmental review may be organized in phases as specified in WAC 197-11-060(5).

E. In all cases not otherwise covered, the timing of the Alliance's environmental review for proposals shall be as specified on an individual, case by case basis by the responsible official consistent with this resolution.

Section 7. Emergency Actions. Any action which in the opinion of the responsible official must be undertaken immediately, or within a time too short to allow full compliance with the provisions of this resolution, to avoid an imminent danger to property (public or private), or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of SEPA, the SEPA rules and this resolution.

Section 8. Categorical Exemptions and Threshold Determinations – Adoption by Reference.

A. Sections 8 through 10 contain rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring preparation of an environmental impact statement. This section also contains rules for evaluating the impacts of proposals not requiring an EIS. The Alliance adopts the following sections by reference:

- WAC
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.

- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS) / initiation of scoping.
- 197-11-390 Effect of threshold determination.

B. Use of exemptions.

1. The responsible official shall determine whether the proposal is exempt. The 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 responsible official shall not require completion of an environmental checklist for an exempt proposal.

2. 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 responsible official shall determine the lead agency, even if the application that triggers the responsible official consideration is exempt.

3. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this resolution except that:

a. The responsible official shall not give authorization for:

i. Any nonexempt action;

ii. Any action that would have an adverse environmental impact;
or

iii. Any action that would limit the choice of alternatives.

b. The responsible official may withhold approval of exempt actions that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt actions were not approved; and

c. 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 actions were not approved.

Section 9. Environmental Checklist.

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

B. For private proposals, the responsible official shall require the applicant to complete the environmental checklist, providing assistance as necessary. For Alliance proposals, the Alliance or responsible official shall complete the environmental checklist for that proposal.

Section 10. Mitigated DNS.

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 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 Alliance is lead agency; and
2. Precede the Alliance's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within fourteen (14) working days. The response shall:

1. Be written;
2. State whether the Alliance currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the Alliance 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 responsible official 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 responsible official shall base the 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 responsible official indicated specific mitigation measures in the response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the responsible official shall issue and circulate a DNS under WAC 197-11-340(2).

2. If the responsible official indicated areas of concern, but did not indicate specific mitigation measures that would allow issuance of a DNS, the responsible official 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 storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or construct "200-foot storm water retention pond at Y location" are adequate.

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

F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a 14-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 Alliance.

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

I. The responsible official'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 responsible official to consider the clarifications or changes in the threshold determination.

Section 11. Environmental Impact Statements – Adoption by Reference.

A. The Alliance adopts the following sections by reference:

WAC

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

B. 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 Alliance issues an EIS, the responsible official shall be satisfied that it complies with this resolution and chapter 197-11 WAC.

C. The DEIS and FEIS or draft and final SEIS shall be prepared by Alliance staff, Alliance contractors, the applicant, or a consultant selected by the Alliance and the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the Alliance 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 Alliance's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

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

Section 12. Commenting – Adoption by Reference.

A. This section contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings.

B. The Alliance adopts the following sections by reference:

WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-510 Public notice.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.

C. Whenever the Alliance issues a DNS under WAC 197-11-340 (2) or a DS under WAC 197-11-360(3), the Alliance shall give public notice as follows:

1. If public notice is required for a nonexempt license or approval, 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 Alliance shall give notice of the DNS or DS by publishing notice in a newspaper of general circulation in the Alliance or general area where the proposal is located.

D. Whenever the Alliance issues a DS under WAC 197-11-360(3), the Alliance shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

E. Whenever the Alliance issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license or approval and publishing notice in a newspaper of general circulation in the Alliance or general area where the proposal is located.

F. Whenever possible, the Alliance shall integrate the public notice required under this section with existing notice procedures for the Alliance's nonexempt permits or approvals required for the proposal.

G. The Alliance may require an applicant to complete the public notice requirements for the proposal at the applicant's expense.

H. The responsible official shall be responsible for preparation of written comments for the Alliance in response to a consultation request prior to a threshold determination participation in scoping and reviewing a DEIS.

I. The responsible official shall be responsible for the Alliance's compliance with WAC 197-11-550 whenever the Alliance is a consulted agency and is authorized to develop operating procedures that will ensure timely responses to consultation requests.

Section 13. Using Existing Environmental Documents.

A. This section contains rules for using and supplementing existing environmental documents prepared under SEPA or the National Environmental Policy Act ("NEPA") for the Alliance's own environmental compliance.

B. The Alliance adopts the following sections by reference:

WAC

197-11-164 Planned actions- Definition and criteria.

197-11-168 Ordinances or resolutions designating planned actions-Procedures for adoption.

197-11-172 Planned actions- Project review.

197-11-600 When to use existing environmental documents.

197-11-610 Use of NEPA documents.

197-11-620 Supplemental environmental impact statement procedures.

197-11-625 Addenda-Procedures.

197-11-630 Adoption-Procedures.

197-11-635 Incorporation by reference-Procedures.

197-11-640 Combining documents.

Section 14. SEPA and Agency Decisions.

A. Sections 14 through 16 contain rules and policies for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA, and for appealing SEPA determinations to agencies or courts.

B. The Alliance adopts the following sections by reference:

WAC

197-11-650 Purpose of this part.

197-11-655 Implementation.

197-11-660 Substantive authority and mitigation.

197-11-680 Appeals.

Section 15. Substantive Authority.

A. The policies and goals set forth in this resolution are supplemental to those in the existing authorization of the Alliance.

B. The Alliance may attach conditions to a permit or approval as long as:

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

2. The conditions are in writing;

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

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

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

C. The Alliance may deny a permit or approval for a proposal on the basis of SEPA as 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 resolution;

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

1. The Alliance shall use all practical 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 of 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 Alliance recognizes that each person has a fundamental and inalienable right to a healthy environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Section 16. Appeals.

A. The Alliance's threshold determination and EIS shall be issued before the decision on the proposal. Any person adversely affected by the threshold determination or the EIS may appeal the Alliance's decision by filing a notice of appeal with the Chair of the Alliance Board of Directors. The notice of appeal shall be sufficiently detailed so as to provide reasonable notice to the Alliance of:

1. How the person or the person's property is adversely affected by the proposal;

2. Any new facts which would be important to and affect the determination;
and

3. The reasons why the determination was incorrect. The notice of appeal shall be accompanied by a filing fee of \$50.00.

B. The threshold determination and the EIS adequacy may be appealed only once.

C. The notice of appeal shall be filed within fourteen (14) days of the date of the determination or of the date of any required notice, whichever is later; provided, that if there is a comment period under WAC 197-11-340 or 197-11-350, the notice of appeal shall be filed within twenty-one (21) days of such date.

D. The appeal shall be consolidated with any hearing or appeal on the proposal before the board of directors, except that the following appeals need not be so consolidated:

1. An appeal of a determination of significance;

2. An appeal of a threshold determination or EIS adequacy where the Alliance is a project proponent, or is funding a project, and the Alliance conducts its SEPA review, including appeals, prior to submitting an application for the project permit; and

3. An appeal of a threshold determination or EIS adequacy on a non-project action.

E. Any appeal which is timely filed shall be scheduled for hearing by the board of directors no later than forty-five (45) days after filing. The hearing shall be recorded, shall provide for testimony under oath and shall otherwise be in accord with applicable law. Within thirty (30) days of the conclusion of the hearing, the board shall render its decision accompanied by appropriate findings of fact and conclusions of law. The decision shall contain a notice of the date and place for commencing an appeal to the superior court, in accordance with WAC 197-11-680(5).

F. In an appeal, the determination of the responsible official shall be entitled to substantial weight.

G. No person having a right to judicial appeal shall pursue judicial review without having first used this administrative appeal process prior to seeking judicial review, unless expressly provided otherwise by state statute.

H. The decision of the board of directors may only be appealed to superior court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075.

Section 17. Notice – Statute of Limitations. The Alliance, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action. The form

of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the county auditor, applicant or proponent pursuant to RCW 43.21C.080

Section 18. Definitions – Adoption by Reference.

A. This section contains uniform usage and definitions of terms under SEPA.

B. The Alliance adopts the following sections by reference, as supplemented by section 3:

WAC

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-721 Closed record appeal.
- 197-11-712 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decision maker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Land covered by water.
- 197-11-758 Lead agency.
- 197-11-760 License.
- 197-11-762 Local agency.

- 197-11-764 Major action.
- 197-11-766 Mitigated DNS.
- 197-11-768 Mitigation.
- 197-11-770 Natural environment.
- 197-11-772 NEPA.
- 197-11-774 Nonproject.
- 197-11-775 Open record hearing.
- 197-11-776 Phased review.
- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
- 197-11-784 Proposal.
- 197-11-786 Reasonable alternative.
- 197-11-788 Responsible official.
- 197-11-790 SEPA.
- 197-11-192 Scoping.
- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.

Section 19. Categorical Exemptions. The Alliance adopts by reference the following rules for categorical exemptions as supplemented in this resolution, including WAC 173-806-080:

WAC

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

Section 20. Agency Compliance – Adoption by Reference.

A. This section contains rules for Alliance compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current Alliance activities.

B. The Alliance adopts the following sections by reference:

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.

- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

C. The Alliance shall require the following fees for its activities in accordance with the provisions of this resolution:

1. Threshold determination. For every environmental checklist the Alliance will review when it is lead agency, the Alliance shall collect a fee of \$150.00 from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this resolution for making a threshold determination shall not begin to run until payment of the fee.

2. Environmental impact statement.

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

b. The responsible official may determine that the Alliance 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 Alliance and may bill such costs and expenses directly to the applicant. The Alliance may require the applicant to post bond or otherwise ensure payment of such costs. The consultants shall be selected by mutual agreement of the Alliance and the applicant after a call for proposals.

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

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

4. The Alliance shall not collect a fee for performing its duties as a consulted agency.

5. The Alliance may charge any person for copies of any document prepared under this resolution and for mailing the document, in a manner provided by Chapter 42.56 RCW.

Section 21. Supplemental Procedures. The responsible official is authorized to develop and promulgate such procedures as the responsible official deems appropriate for implementing the SEPA rules and this resolution. The responsible official shall provide responses on behalf of the Alliance when it is a consulted agency.

Section 22. Severability. If any provisions of this resolution or its application to any person or circumstances is held invalid, the remainder of this resolution, or the provision to other persons or circumstances, shall not be affected.

Section 23. Forms. The Alliance adopts the following forms and selections by reference:

WAC

197-11-960 Environmental checklist.

197-11-965 Adoption notice.

197-11-970 Determination of nonsignificance (DNS).

197-11-980 Determination of significance and scoping notice (DS).

197-11-985 Notice of assumption of lead agency status.

197-11-990 Notice of action.

ADOPTED by the Board of Directors of Discovery Clean Water Alliance at a regular meeting held on January 18, 2013.

DISCOVERY CLEAN WATER ALLIANCE



Chair, Board of Directors