



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: April 20, 2018

TIME: 11:28 AM

WSR 18-10-007

**Agency:** Department of Natural Resources

**Title of rule and other identifying information:** (describe subject) WAC 332-41-910, Designation of responsible official

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Addition of assistant division manager to the list of titles authorized to act as SEPA responsible official.

**Reasons supporting proposal:** Currently the rules allows for only region managers, assistant region managers and division managers, or a superior management level official to be the SEPA responsible official. Because of the organizational structure of Washington Geological Survey and Aquatic Resources Divisions, the division managers of those act as responsible official for all SEPA proposals for their divisions. This rule change would provide an option for either of these division managers to delegate SEPA RO duties to an assistant division manager.

**Statutory authority for adoption:** Chapters 43.21C, 34.05 RCW, WAC 197-11-902(2), 197-11-904(1), 197-11-910 and delegation order, November 5, 2001, signature authority to adopt rules.

**Statute being implemented:** 43.21C.110 RCW

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Department of Natural Resources

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
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**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The designation of SEPA responsible officials within DNR is strictly a procedural, operational rule, the revision of which does not impact anyone outside of the agency.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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**AND RECEIVED BY** (date) July 3, 2018

**Date:** April 20, 2018

**Name:** Brule Burkhart

**Title:** Deputy Supervisor for Administration

**Signature:**

**Signature:**

Place signature here



**WAC 332-41-910 Designation of responsible official.** (1) **Who may serve as DNR's SEPA responsible official?** Since the responsible official shall carry out duties and functions for the purpose of assuring DNR's compliance with SEPA and the SEPA rules, it is important that DNR clearly designates who will be the responsible official for a proposal.

(a) DNR's responsible official will be as follows:

(i) Division manager;

(ii) Designated region manager; ((~~or~~))

(iii) Designated assistant division manager; or

(iv) Designated assistant region manager.

(b) The responsible official for the harbor line commission shall be the division manager of the aquatic resources division.

(c) When the region manager or assistant region manager is involved with the proposal, or during emergencies, i.e., fire season, it may be necessary to assign the responsible official duties for a proposal to a region manager in another region. The division manager may also assume responsible official duties for the proposal.

(d) When potentially significant conflicting DNR interests exist involving DNR proposals that converge at the division manager or region manager level, or the proposal involves more than one region, a superior management-level official may act as the responsible official. See subsection (4) of this section for recommended qualifications.

(2) **What are the responsible official's duties?** When DNR is the lead agency, the responsible official shall review the environmental checklist and make the threshold determination in compliance with this chapter, chapters 43.21C RCW and 197-11 WAC, and specifically, WAC 197-11-330.

(3) **What other procedural requirements must be followed?** The responsible official shall carry out further SEPA compliance under WAC 197-11-340, 197-11-350, or 197-11-360, as appropriate. This includes notice and circulation requirements for threshold determinations.

(4) **What are the general qualifications of a DNR responsible official?** The responsible official shall not be the applicant, project leader, or the decision maker for the proposal. The official shall have general technical expertise sufficient to assess the impacts of the proposal.

(5) **What if a determination of significance is issued?** When an environmental impact statement is required based on the threshold determination, scoping and EIS preparation under chapter 197-11 WAC shall occur under direction of the responsible official.