

**GUIDANCE FOR USING DENR's
STATE ENVIRONMENTAL POLICY ACT (SEPA) RULES**
(revised effective April 1, 2003)

This document is to be used as non-binding guidance that describes the changes made to the SEPA rules, changes that became effective on April 1, 2003. It is not intended for this to constitute the legal position of DENR, and the rule and its history with control to the extent there are any inconsistencies between this guidance and the rule. If you have legal questions regarding the rules, please contact a licensed attorney.

The majority of the changes were organizational in nature, i.e. no substantive interpretation changes were made. However, a few changes were substantive in nature. Some of these substantive changes to rules are designed to aid the user in preparation of environmental documentation and some of the substantive changes are changes in minimum criteria thresholds.

Specifically, this document will describe how the organization of the document was changed. In most cases, the intent of the rules is the same. For rules that did change in meaning, a brief interpretation is provided. There are a few places where the thresholds for the minimum criteria (rules .0405 - .0411) did change, or new criteria were added or old and outdated criteria were deleted. This document does not describe in any detail these substantive changes to the respective rules. Questions on interpretation as it relates to the minimum criteria should be directed to your attorney or the appropriate DENR staff.

Below is a table that outlines how the organization of the document was changed, rule by rule.

Section/Rule for Revised SEPA Rules	New Section/Rule Name	Old Section/Rule Name	Notes
Section .0100	General Provisions	General Provisions	
Rule .0101	Statement of Purpose, Policy, and Scope	Statement of Purpose, Policy, and Scope	-the revised .0101 adds subsection (f) that established the procedures for determining whether an environmental document is required when DENR is the State Project Agency -in the revised rules, definitions are deleted from this rule
Rule .0102	Agency Compliance	Agency Compliance	-this rule is repealed in the revised version of the rules

Rule .0103	Definitions	N/A	-this rule is new -this rule creates a separate rule for the definitions in this Subchapter -the number of definitions increase from 8 to 26
Rule .0104	Agency Compliance	N/A	-this rule is new, but is essentially verbatim to rule .0102 that was repealed in the revised edition
Rule .0105	Lead and Cooperating Agency Responsibility	N/A	-this rule is new, but its meaning is essentially the same as rule .0203 that was repealed in the revised edition – it just clarifies the circumstances why the Secretary may appoint a lead agency and cooperating agencies
Rule .0106	Scoping and Hearings	N/A	-this rule is new, but its meaning is essentially the same as rule .0204 that was repealed in the revised edition – 2 sentences were added at the end of the rule that defines scoping and hearing processes
Rule .0107	Limitations of Actions During NCEPA Process	N/A	-this rule is new, but is essentially verbatim to rule .0402 that was repealed in the revised edition
Rule .0108	Emergencies	N/A	-this rule is new, but part (a) and (b) of this rule are essentially verbatim to rule .0403 that was repealed in the revised edition -part (c) of this rule is new – it states that the minimum criteria and the review processes for EAs and EIS may be altered during emergencies to control or mitigate threats to public health, safety and welfare and also gives the rule cite for establishment of procedures under emergency circumstances.
Rule .0109	Non-State	N/A	-this rule is new, but parts (a),

	Involvement and Consultants		(b) and (c) of this rule are essentially verbatim to rule .0404 that was repealed in the revised edition -part (d) of this rule is new – it states that the EA Guidance Document is available at the State Clearinghouse
Section .0200	Integration with Agency Activity (Should Be: Preparation of Environmental Documents)	Integration with Agency Activity	
Rule .0201	Early Application of the NCEPA	Early Application of the NCEPA	-this rule has been repealed
Rule .0202	When to Prepare Environmental Documents	When to Prepare Environmental Documents	-this rule has been repealed
Rule .0203	Lead and Cooperating Agency Responsibility	Lead and Cooperating Agency Responsibility	-this rule has been repealed
Rule .0204	Scoping and Hearings	Scoping and Hearings	-this rule has been repealed
Rule .0205	Implementation	N/A	-this rule is new, but is essentially verbatim to rule .0301 that was repealed in the revised edition, with the exception that a sentence has been added that states that consultants may prepare environmental documents
Rule .0206	When to Prepare Environmental Documents	N/A	-this rule is new, but parts (a) and (b) are essentially verbatim to parts (b) and (c) of rule .0202 that were repealed in the revised edition -part (c) is new – it states the closely connected activities should be reviewed together and gives examples of activities that are closely connected
Rule .0207	Incorporation by Reference	N/A	-this rule is new, but is essentially verbatim to rule

			.0302 that was repealed in the revised edition
Rule .0208	Incomplete or Unavailable Information	N/A	-this rule is new, but is essentially verbatim to rule .0303 that was repealed in the revised edition
Section .0300	Preparation of Environmental Documents (Should Be: Activities Which Require Environmental Documentation)	Preparation of Environmental Documents	
Rule .0301	Implementation	Implementation	-this rule has been repealed
Rule .0302	Incorporation by Reference	Incorporation by Reference	-this rule has been repealed
Rule .0303	Incomplete or Unavailable Information	Incomplete or Unavailable Information	-this rule has been repealed
Rule .0304	Activities Above the Minimum Criteria	N/A	-this rule is new -this rule states that activities above the minimum criteria set out in Section .0400 require environmental documentation
Rule .0305	Types of Activities Requiring Environmental Documentation	N/A	-this rule is new, but the introductory paragraph, part (1) and part (2) of this rule are essentially verbatim to part (a), part (2) and part (3) of rule .0201 that was repealed in the revised edition; and part (3) and part (4) of this rule are essentially verbatim to parts (c) and (d) in rule .0502 that were repealed in the revised edition
Rule .0306	Activities of a Special Nature	N/A	-this rule is new, but is rule is essentially verbatim to rule .0503 that was repealed in the revised edition
Section .0400	Other Requirements (Should Be: Activities, Designated by the Minimum		

	Criteria, Which Do Not Require Environmental Documentation)		
Rule .0401	Agency Decision-Making Procedures	Agency Decision-Making Procedures	-this rule has been repealed
Rule .0402	Limitation on Actions During NCEPA Process	Limitation on Actions During NCEPA Process	-this rule has been repealed
Rule .0403	Emergencies	Emergencies	-this rule has been repealed
Rule .0404	Non-State Involvement and Contractors	Non-State Involvement and Contractors	-this rule has been repealed
Rule .0405	Purpose of the Minimum Criteria Thresholds	N/A	-the rule is new, but is essentially verbatim to rule .0501 and the introductory paragraph of rule .0504 that were repealed in the revised edition
Rule .0406	Sampling, Survey, Monitoring, and Related Research Activities	N/A	-this rule is new, but is similar to part (1) of rule .0504 that was repealed in the revised edition *Please contact a licensed attorney or the appropriate DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0407	Standard Maintenance or Repair Activities	N/A	-this rule is new, but is similar to part (2) of rule .0504 that was repealed in the revised edition *Please contact a licensed attorney or the appropriate DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0408	Minor Construction Activities	N/A	-this rule is new, but is similar to part (3) of rule .0504 that was repealed in the revised edition *Please contact a licensed attorney or the appropriate

			DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0409	Management Activities	N/A	-this rule is new, but is similar to part (4) of rule .0504 that was repealed in the revised edition *Please contact a licensed attorney or the appropriate DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0410	Private Use of Public Lands	N/A	-this rule is new, but is similar to part (5) of rule .0504 that was repealed in the revised edition *Please contact a licensed attorney or the appropriate DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0411	Remediation Activities	N/A	-this rule is new *Please contact a licensed attorney or the appropriate DENR staff for interpretation of these minimum criteria or for changes to the minimum criteria thresholds
Rule .0501	Purpose	Purpose	-this rule has been repealed
Rule .0502	Major Activities	Major Activities	-this rule has been repealed
Rule .0503	Exceptions to the Minimum Criteria	Exceptions to the Minimum Criteria	-this rule has been repealed
Rule .0504	Non-Major Activity	Non-Major Activity	-this rule has been repealed
Rule .0505	Non-Major Hurricane Relief Activity	Non-Major Hurricane Relief Activity	-this rule has been repealed