

# Appendix B

## State Environmental Policy Act Procedures

### I. OBJECTIVES

- A. The State Environmental Policy Act of 1971, (SEPA), being RCW Chapter 43.21C, has been enacted to:
1. Declare a State policy which will encourage productive and enjoyable harmony between people and their environment;
  2. Promote efforts which will prevent or eliminate damage to the environment and biosphere;
  3. Stimulate human health and welfare;
  4. Enrich the understanding of the ecological systems and natural resources important to the state and nation.
- B. The Act authorizes and directs all branches of governments of this State, including State agencies, municipal and public corporations and counties to:
1. Use a systematic, interdisciplinary approach, ensuring integrated use of natural/social sciences and environmental design arts in planning/decision making on actions having a potential environmental impact;
  2. Identify and develop methods and procedures, in consultation with the Department of Ecology and the Ecological Commission, to ensure appropriate consideration of environmental amenities and values, along with economic and technical considerations in decision making;
  3. Consult with, and obtain comments from, any environmentally related public agency with respect to any environmental impact involved.
  4. Prepare a detailed statement for inclusion with every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, which outlines:
    - a. The environmental impact of the proposed action;
    - b. Unavoidable adverse environmental effects of the proposed action;
    - c. Alternatives to the proposed action;
    - d. Relationships between short-term uses of the environment and maintenance/enhancement of long-term productivity;
    - e. Any irreversible and irretrievable resource commitments of the proposed action;
  5. Make available to the Governor, the Department of Ecology, the Ecological Commission, and the public, copies of the Environmental

Statement and comments/view of environmentally related appropriate federal, provincial, state, and local agencies;

6. Provide copies of environmental statements and comments/views to accompany the proposal through the existing agency review processes;
7. Study and develop appropriate alternatives in cases involving resource-use conflicts;
8. Recognize worldwide environmental problems, and, where consistent with State policy, support measures to maximize international cooperation in preventing a decline in quality of the world's environment;
9. Make information on environmental restoration, maintenance and enhancement available to others;
10. Initiate and use ecological information in the planning and development of natural resource-oriented projects.

C. In keeping with the full purpose and intent of the law and in response to the foregoing directives, the following guidelines and procedures governing legislative enactment based on policy decisions by the Board of Commissioners, shall be followed. It is the intent of the Commission that any action of this District shall be evaluated in the sense of being either major/significant or minor/insignificant as related to environmental impact. The procedures dealing with threshold determinations and beyond are based on the District being Lead Agency. For those proposals where the District is not the Lead Agency, the District shall comply with the adopted procedures of the Lead Agency.

## II. INCORPORATION OF SEPA RULES

Chapter 197-11 of the Washington Administrative Code (WAC) was established as the SEPA Rules, effective April 4, 1984. The SEPA Rules were established to provide uniform requirements for compliance with SEPA, and are hereby incorporated by reference into these District SEPA Procedures, as clarified herein. The District's SEPA Procedures, the SEPA Rules (WAC 197-11) and SEPA (43.21C RCW) must be read together as a whole in order to comply with the spirit and letter of the law.

## III. DEFINITIONS

In addition to the definitions provided in the SEPA Rules (WAC 197-11-700 series), the following definitions are provided to clarify District-specific items:

- Building:** A facility which is regularly occupied or houses personal property (e.g., a dwelling unit, office facility, water treatment plant, etc.). Includes underground utilities to five feet outside the footprint of the building.
- Impoundment:** A storage facility for untreated water, usually man-made with some form earthen or concrete dam(s), and inlet and/or outlet piping for the water.

- Right-of-Way: A narrow band of property with legal title or easement for a specific purpose(s), usually for transportation and/or utility access (such as telecommunication and electrical wires or water/sewer piping).
- Storage Tank: A structure for the storage of liquid, such as potable water; usually above ground; usually constructed of steel or concrete, with a roof.
- Structure: A facility which is not regularly occupied nor houses personal property (e.g.: storage tank, booster pump facility, etc.). Includes underground utilities to five feet outside the footprint of the structure.
- Water Plant: Water system components, usually below ground level, including but not limited to water transmission and distribution lines, fittings, valves, control valve facilities, water service meters, fire hydrants, etc., but not structures or buildings.

#### IV. LEAD AGENCY

The “Lead Agency” is the agency responsible for SEPA compliance for a particular proposal. When the District initiates a proposal, it is the Lead Agency for that proposal. If the District shares in the implementation of a proposal, it must mutually agree in writing with the other implementing party on which agency will be the Lead Agency. If the other party is a private party, the District will be the Lead Agency. State agencies will automatically be Lead Agency for proposals listed in 197-11-938 WAC, including impoundments of 40 or more acres of surface area (Department of Ecology).

#### V. TIMING OF SEPA PROPOSALS

The District shall prepare its threshold determination, and environmental impact statement (EIS) if required, at the earliest possible point in the planning and decision making process, when the principal features of a proposal and its environmental impacts can be reasonably identified. For most proposals, this should occur at the conceptual stage rather than the final detailed design stage. See the attached project timeline for a relative scale of when SEPA should be addressed. For its own proposals, the District may extend the time limits prescribed in the SEPA Rules (197-11-055 WAC).

#### VI SEPA APPLICABILITY

- A. The District shall consider SEPA on all proposals except those which are categorically exempt. The following actions, which may be routinely undertaken by the District, are categorically exempt from threshold determination and EIS requirements per 197-11-800 WAC.
1. Construction of an office, commercial, service or storage building or structure with 4,000 SF of gross floor area and with associated parking facilities for 20 automobiles.
  2. Construction and/or installation of commercial on-premises signs.
  3. Installation of hydrological measuring devices regardless of whether or not on lands covered by water.

4. Repair, remodeling, maintenance and minor alteration of District structures, buildings and water plant involving no material expansion or changes in use beyond that previously existing; special provisions apply to areas covered wholly or in part by water.
5. Appropriation of water (including exemption of hydraulics permit, shoreline permit and building permit) in the amount of not more than 50 cfs of surface water for irrigation purposes; and not more than 1 cfs of surface water, or 2,250 gpm of groundwater, for any purpose.
6. Purchase or acquisition of any right to real property; the sales, transfer or exchange of any publicly-owned real property, but only if not subject to an authorized public use; the lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use is otherwise exempt from SEPA.
7. Enforcement and inspections, including the abatement of hazards to public health and safety.
8. Administrative, fiscal and personnel activities of the District (197-11-800 (13) WAC).
9. Local Utility Districts, unless such formation includes in its proposal the construction of such facilities not exempt from SEPA.
10. All storm water, water and sewer facilities, lines equipment, hookups, appurtenances including, utilizing or related to lines 8-inch or less in diameter.
11. All electrical facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances.
12. All developments within the confines of any existing electric substation, impoundment, storage tank, pump station or well, not including additional appropriations of water.
13. Periodic use of chemical or mechanical means to maintain District right-of-way in its design condition; chemicals shall be as approved by Washington State Department of Agriculture and applied by licensed personnel; chemicals shall not be applied in watersheds controlled for drinking water quality.
14. Actions during an emergency to avoid imminent threat to public health and safety or to prevent serious environmental degradation (197-11-880 WAC).
15. The construction or installation of minor surveillance and control systems and temporary traffic controls and detours.
16. All communication lines, including cable TV, but not including communication towers or relay stations.

17. Watershed restoration projects. Actions pertaining to watershed restoration projects as defined in RCW 89.08.460(2) are exempt, provided, they implement a watershed restoration plan which has been reviewed under SEPA (RCW 89.08.460(1)).
18. Personal wireless service facilities.
  - (a) The siting of personal wireless service facilities are exempt if the facility:
    - (i) Is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;
    - (ii) Includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agriculture zone; or
    - (iii) Involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.
  - (b) For the purposes of this subsection:
    - (i) “Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.
    - (ii) “Personal wireless service facilities” means facilities for the provision of personal wireless services.
    - (iii) “Microcell” means a wireless communication facility consisting of an antenna that is either:
      - (A) Four feet in height and with an area of not more than five hundred eighty square inches; or
      - (B) If a tubular antenna, no more than four inches in diameter and no more than six feet in length.
      - (C) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

- B. The above categorical exemptions, numbered 1 through 18, shall not apply in areas designated by a city or Skagit County as an “environmentally sensitive area”. Critical Areas: Wetlands, Flood Hazard Areas, Aquifer Recharge Areas, Geo Hazard Areas, Fish & Wildlife Habitat.

## VII. THRESHOLD DETERMINATION

### A. General

A threshold determination is required for any proposal which meets the definition of “action” (197-11-704 WAC) and is not categorically exempt. The District’s “responsible official” shall make the determination, using the process indicated in 197-11-330 WAC, usually assisted by an Environmental Checklist. The determination shall be documented as either a Determination of Non-significance (DNS) or a Determination of Significance (DS), and shall be made as soon as practical after the agency has developed or is presented with a proposal.

The threshold determination shall not balance whether the beneficial aspects of a proposal outweighs its adverse impacts, but rather shall consider whether a proposal has any probable significant adverse environmental impacts under the SEPA Rules and these Procedures.

B. Designation of Responsible Official

The “responsible official” ensures the District’s SEPA Procedures are followed, and issues the threshold determination and supervises the development of the EIS, if required. The responsible official will be the General Manager, or a District staff member one management level below the General Manager, and/or a professional engineer.

C. Environmental Checklist

1. A private applicant or a member of the District staff will prepare an Environmental Checklist for each proposed action which is not categorically exempt, using the form provided in Section IX of these Procedures. If practical, the Checklist should be prepared by a staff member other than the responsible official. The following resources should be used, at a minimum, in developing the Checklist:

- District Water System Plan
- Appropriate City or County Comprehensive Plan
- Appropriate City or County Zoning Map(s)
- Skagit County Shoreline Management Master Program
- USDA/Soil Conservation Service Soil Survey of Skagit County, WA
- National Wetlands Inventory Map(s)
- Information from other public and private utilities

For water system improvements, the Checklist shall at a minimum address chlorinated water in terms of its use for disinfection and its disposal. Proposals for new water tanks shall address detention requirements for both stormwater runoff and tank overflow/drainage conditions.

The Checklist will have attached at least a Project Site Map and a Wetlands Map, even if no wetlands are within 200 feet of the proposed site(s).

2. The completed Checklist shall assist the responsible official in making a threshold determination. A checklist is not required if the District has decided that an EIS must be prepared for the proposal.

D. Determination of Nonsignificance (197-11-340 WAC)

1. If the responsible official determines that there will be no probable significant adverse impact from a proposal, the responsible official shall issue a DNS using the form in Section IX of these Procedures.
2. If the District adopts another environmental document in support of a DNS, the Notice of Adoption and the DNS shall be combined or attached to each other. The Notice of Adoption form can be found in Section IX of these Procedures.
3. Comment Period
  - a. Waterline Proposals. The District will not require, but may at its sole discretion opt for, a 15-day comment period for waterline-related proposals only, regardless of their size, except where the proposal involves:
    - (1) Another agency with SEPA jurisdiction;
    - (2) Demolition of any structure or building not exempted by 197-11-800(2)(f) or -880 WAC;
    - (3) Issuance of clearing or grading permits not exempted by Part Nine of the SEPA Rules; or
    - (4) A DNS under 197-11-350(2), -350(3) or -360(4) WAC.

Waterlines larger than 8-inches in diameter are becoming routine installations by the District; the WSDOT APWA Standard Specifications and AWWA's standards for installation, to which the District adheres, address how the District is to deal with potentially hazardous materials and therefore mitigates environmental impacts during construction, which is normally the time of greatest potential for adverse environmental impacts for waterlines.

Larger waterlines (18-inch diameter and over) of significant length and waterlines incidental to other non-categorically exempt work will normally have comment periods.

- b. Other Proposals. All proposals for which the District is Lead Agency, other than those exempted by subsection 3a. above will have a 15-day comment period. The District will not act on any proposal until the due date for receipt of comments has lapsed and the responsible official has determined that no further threshold action is required.
4. Mitigated DNS. If a proposal is modified/clarified after the Checklist is prepared but before the threshold determination is made, the responsible official may issue a Mitigated DNS (MDNS), including such conditions that would mitigate any probable adverse environmental impacts made possible by the original proposal. See also 197-11-350 WAC.

5. Each completed DNS and its Environmental Checklist shall be filed in the proposal's construction order file at the District office.

E. Determination of Significance (197-11-360 WAC)

1. If the responsible official determines that a proposal may have a probable adverse environmental impact, the responsible official shall prepare and issue a DS using the form provided in Section IX of these Procedures. Examples of proposals which may be considered major or significant are:
  - a. New or revised impoundment structures that are not categorically exempt;
  - b. Overhead power lines, when designed for 115,000 volts or more, if in excess of one-half mile in length;
  - c. Electric substations with installed capacity of 5,000 kVA or more and not part of an industrial development;
  - d. Electric switching stations, when occupying an area of one-fourth acre or more;
  - e. Potable or septic water treatment facilities, with net increase in design capacity of 15 million gallons per day or more.
2. If the District adopts another environmental document in support of a DS, a Notice of Adoption and the DS shall be combined or attached to each other. The Notice of Adoption form can be found in Section IX of these Procedures.
3. The responsible official shall commence scoping for the EIS by circulating copies of the DS to the applicant (if other than the District), agencies with jurisdiction and expertise (if any), affected tribes, and the public, per the public notice procedures in the following section. Scoping is not required if the District is adopting another environmental document for the EIS or is preparing a Supplemental EIS.
4. The District shall be guided by Part Four of the SEPA Rules in its preparation and issuance of an EIS.

F. Public Notice

The District shall inform the public and other agencies that an environmental document is being prepared or is available and that public hearing, if any, will be held by publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located. The District may also opt to post the property, for site specific proposals.

G. Threshold Determination Distribution List

1. The responsible official shall ensure the threshold determination and Environmental Checklist if prepared, are distributed at a minimum to the following:



- a. WA State Department of Ecology Environmental Review Section;
  - b. WA State Department of Health, Drinking Water Division;
  - c. Skagit County Department of Planning and Community Development (if outside the corporate limits of a city);
  - d. City Planning Director (if within an Urban Growth Area);
  - e. Local tribes (Skagit System Cooperative if in the Skagit River basin or its tributaries), Upper Skagit, Samish; and
  - f. Applicant (if other than the District).
2. Other agencies to receive copies for particular proposals might include:
    - a. WA State Department of Fish and Wildlife (if within 200 feet of any surface water course or wetland);
    - b. U.S. Forest Service (if in a federally-regulated watershed used for potable water);
    - c. WA State Department of Natural Resources (if within a state-regulated watershed used for potable water);
    - d. WA State Department of Transportation (if crossing a State Right-of-Way);
    - e. Other public or private utilities (if the proposal could potentially impact their service).

#### H. Appeals

1. Administrative appeals and appeals to a local legislative body shall not be allowed under these Procedures.
2. Judicial appeals shall follow the requirements of RCW 43.21C.060, RCW 43.21C.075, RCW 43.21C.080 and 197-11-680 WAC.

### VIII. NOTICE OF ACTION (RCW 43.21C.080)

A. The responsible official shall file a Notice of Action using the forms at the end of these Procedures, for all proposals with a comment period and all waterline proposals 18 inches in diameter and larger. The “action” addressed by the Notice of Action is not the SEPA threshold determination, but the Resolution (or motion) by the District’s Board of Commissioners approving the project scope and budget and authorizing the District staff or design consultant to proceed.

B. The Notice of Action shall be:

1. Published on same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is subject of the action is located;
2. Filed with the Department of Ecology at the following address prior to the date of the second newspaper publication:

Environmental Review Section  
Attention: Barbara Ritchie  
Department of Ecology  
PO Box 47600  
Olympia WA 98504-7600

3. Except for non-project actions, posted in a conspicuous manner on the property upon which the project is to be constructed. As an alternative to posting, the Notice may be mailed to the last recorded real property owners as shown on the records of the County Treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.
- C. The Notice of Action shall indicate that a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.
- (ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.
- (2) (a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in these procedures on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to these procedures or be barred.

## IX. SEPA FORMS

The following attached forms shall be used by appropriate District staff for SEPA actions:

- A. Environmental Checklist
- B. Determination of Non-Significance
- C. Determination of Significance
- D. Notice of Adoption
- E. Notice of Action