

STATE ENVIRONMENTAL POLICY ACT COMPLIANCE

Policies and Authority

The district, through its Board of Directors, accepts its responsibility as described by the Washington state legislature in the State Environmental Policy Act (SEPA), specifically Chapter 43.21C RCW and the implementing regulations in Chapter 197-11 WAC.

Adoption by Reference

The district adopts by reference the following sections or subsections of chapter 197-11 of the Washington Administrative Code.

WAC 197-11 -040 Definitions

- 050 Lead agency
- 055 Timing of the SEPA process
- 060 Content of environmental review
- 070 Limitations on actions during SEPA process
- 080 Incomplete or unavailable information
- 090 Supporting documents
- 100 Information required of applicants
- 300 Purpose of this part
- 305 Categorical exemptions
- 310 Threshold determination required
- 315 Environmental checklist
- 330 Threshold determination process
- 335 Additional information
- 340 Determination of nonsignificance (DNS)
- 350 Mitigated DNS
- 360 Determination of significance (DS)/initiation of scoping
- 390 Effect of threshold determination
- 400 Purpose of EIS
- 402 General requirements
- 405 EIS types
- 406 EIS timing
- 408 Scoping
- 410 Expanded scoping (Optional)
- 420 EIS preparation
- 425 Style and size
- 430 Format
- 435 Cover letter or memo
- 440 EIS contents
- 442 Contents of EIS on nonproject proposals
- 443 EIS contents when prior nonproject EIS
- 444 Elements of the environment

- 448 Relationship to EIS to other considerations
- 450 Cost-benefit analysis
- 455 Issuance of DEIS
- 460 Issuance of FEIS
- 500 Purpose of this part
- 502 Inviting comment
- 504 Availability and cost of environmental documents
- 508 SEPA register
- 535 Public hearings and meetings
- 545 Effect of no comment
- 550 Specificity of comments
- 560 FEIS response to comments
- 570 Consulted agency costs to assist lead agency
- 600 When to use existing environmental documents
- 610 Use of NEPA documents
- 620 Supplemental environmental impact statement – procedures
- 625 Addenda – procedures
- 630 Adoption – procedures
- 635 Incorporation by reference – procedures
- 640 Combining documents
- 650 Purpose of this part
- 655 Implementation
- 660 Substantive authority and mitigation
- 680 Appeals
- 700 Definitions
- 702 Act
- 704 Action
- 706 Addendum
- 708 Adoption
- 710 Affected tribe
- 712 Affecting
- 714 Agency
- 716 Applicant
- 718 Built environment
- 720 Categorical exemption
- 722 Consolidated appeal
- 724 Consulted agency
- 726 Cost-benefit analysis
- 728 County/city
- 730 Decision maker
- 732 Department
- 734 Determination of nonsignificance (DNS)
- 736 Determination of significance (DS)
- 738 EIS

- 740 Environment
- 742 Environmental checklist
- 744 Environmental document
- 746 Environmental review
- 748 Environmentally sensitive area
- 750 Expanded scoping
- 752 Impacts
- 754 Incorporation by reference
- 756 Lands covered by water
- 758 Lead agency
- 760 License
- 762 Local agency
- 764 Major action
- 766 Mitigated DNS
- 768 Mitigation
- 770 Natural environment
- 772 NEPA
- 774 Nonproject
- 776 Phased review
- 778 Preparation
- 780 Private project
- 782 Probable
- 784 Proposal
- 786 Reasonable alternative
- 788 Reasonable official
- 790 SEPA
- 792 Scope
- 793 Scoping
- 794 Significance
- 796 State agency
- 797 Threshold determination
- 799 Underlying governmental action
- 800 Categorical exemptions
- 880 Emergencies
- 890 Petitioning DOE to change exemptions
- 900 Purpose of this part
- 912 Procedures of consulted agencies
- 916 Application to ongoing actions
- 918 Lack of agency procedures
- 920 Agencies with environmental expertise
- 922 Lead agency rules
- 924 Determining the lead agency
- 926 Lead agency for governmental proposals
- 928 Lead agency for public and private proposals

- 930 Lead agency for private projects with one agency with jurisdiction
- 932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
- 934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
- 936 Lead agency for private projects requiring licenses from more than one state agency
- 938 Lead agencies for specific proposals
- 940 Transfer of lead agency status to a state agency
- 942 Agreements on lead agency status
- 944 Agreements on division of lead agency duties
- 946 DOE resolution of lead agency disputes
- 948 Assumption of lead agency status
- 960 Environmental checklist
- 965 Adoption notice
- 970 Determination of nonsignificance (DNS)
- 980 Determination of significance and scoping notice (DS)
- 985 Notice of assumption of lead agency status
- 990 Notice of action

Additional Definitions

In addition to those definitions contained with WAC 197-11-700 to 197-11-799, the following terms shall have the following meanings, unless the context indicated otherwise:

- A. District. District means the Eastmont School District No. 206, Douglas County, State of Washington.
- B. SEPA Rules. SEPA Rules means chapter 197-11 WAC adopted by the Council on Environmental Policy.
- C. Superintendent. Superintendent means the superintendent of the district.

Critical Areas

In its actions, the district shall respect "critical areas" and their modified exemption criteria which have been adopted and displayed by local governments pursuant to WAC 197-11908 and the Growth Management Act, Chapter 36.70A RCW.

Actions which shall be located wholly or partially within an environmentally sensitive area are to be treated no differently than other actions under these guidelines. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in a critical area.

Use of Exemptions

When the district receives an application for a license or when the district initiates a proposal, it shall determine whether the license and/or the proposal is exempt. The district'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 these procedures apply to the proposal. The district shall not require completion of an environmental checklist for an exempt proposal.

In determining whether a proposal is exempt from SEPA, the district shall comply with the square footage and parking space threshold levels adopted by the jurisdiction where the proposal is located under WAC 197-11-800(1).

To determine whether or not a proposal is exempt, the district shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some which are not, the proposal is not exempt and the district must complete a threshold determination.

If a proposal includes both exempt and nonexempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these guidelines subject to the following limitations:

- A. No nonexempt action shall be authorized prior to compliance with procedural and substantive requirements;
- B. No action shall be authorized which shall irrevocably commit the district to approve or authorize a nonexempt action;
- C. The district may withhold approval of an exempt action which would lead to modification of the physical environment, when such modifications would serve no purpose if later approval of a nonexempt action is not secured; and
- D. The district may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a nonexempt action is not secured.

Lead Agency Determination and Responsibilities

Subject to WAC 197-11-924 (determining the lead agency), the district is lead agency for the proposals it initiates and is responsible for compliance with SEPA regulations.

Environmental Checklist

Except as provided in WAC 197-11-315 the school district must complete an environmental checklist (WAC 197-11-960) for any proposal that meets the definition of action (WAC 197-11-709), and is not categorically exempt pursuant to WAC 197-11-800 and 880. This checklist shall be the basis for the threshold determination.

For all proposals for which the district is the lead agency, the responsible official of the district shall make the threshold determination pursuant to the criteria and procedures of WAC 197-11-300 through 360.

Mitigated DNS

As provided in this section and in WAC 197-11-360, the district may clarify or change features of its own proposals, and may specify mitigation measures in its own DNSs, as a result of comments of other agencies or the public or as a result of additional district planning. For private proposals, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or based on changes to, or clarifications of, the proposal made by the applicant.

A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

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 provided by the district.

Preparation of EIS

The draft and final EIS shall be prepared either by the responsible official or his/her designee or a consultant retained by the school district.

No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution.

Public Notice

For notices of DS, DNS, MDNS, scoping, EIS, and public hearings (but not public meetings) on environmental documents, the district shall, in addition to, or in conjunction with, the circulation requirements to other agencies and affected tribes, the district shall:

- A. Establish a mailing list for those interested citizens who wish to be informed regarding documents the district issues that require public notice;
- B. File the documents required by WAC 197-11-508 with the state department of ecology for publication in the state SEPA register;
- C. Post notice at the site, for site-specific proposals; and
- D. Place appropriate notice in the paper of general circulation which serves the area.

Designation of Official to Perform Consulted Agency Responsibilities for the District

The superintendent/designee shall be responsible for the preparation of the written comments for the district in response to a consultation request prior to a threshold determination, participation in predraft consultation or reviewing a draft EIS.

The official designated in paragraph 1 of this section shall be responsible for compliance by the district with WAC 197-11-400 through 460 wherever the district is a consulted agency, and he/she is authorized to develop operating procedures which shall ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the district.

Designation of Responsible Official

For those proposals for which the district is the lead agency, the responsible official shall be the superintendent/designee. The responsible official shall make the threshold determination, supervise preparation of any required EIS and perform any other functions assigned to the "lead agency."

Fees

No fee shall be collected by the district for performing its duties as a consulted agency. The district may charge any person for copies of any document prepared pursuant to the requirements of this ordinance and for mailing thereof, in a manner provided by chapter 42.56 RCW.

Administrative Appeals

WAC 197-11-680 is modified as follows to provide for appeals of district SEPA decisions:

A. Appeals

1. Appeal to Superintendent. Administrative appeals are provided for SEPA procedures, except that appeals of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) are not allowed. SEPA determinations shall be appealed by mailing or delivering a written appeal which includes the information set forth in subsection 3, below, to the superintendent within the time period set forth in subsection 2, below.
2. Time Period for Appeal. The written appeal must be delivered or mailed to the superintendent by 4:00 p.m. of the fourteenth (14th) calendar day following the date the challenged environmental document or procedure is issued.
3. Form of Appeal. For an appeal to be accepted, the written appeal must specify: (a) the determination being appealed; (b) the specific errors complained of; (c) the corrective action sought; (d) the reasons why the determination should be changed; (e) whether further oral or written comment or a hearing is requested; and (f) the signature, address, and phone number of the appellant. Supporting documents may be submitted with the written appeal.
4. Hearing Examiner. The superintendent may review the appeal or may appoint a hearing examiner to hear the appeal and present written recommendation to the superintendent.

5. Time of Decision. The superintendent and appointed hearing examiner, if one is appointed, shall each have thirty (30) days after securing sufficient information to make a decision or recommendation in writing. The superintendent or hearing examiner may set guidelines for the submission of any additional information or comments.
 6. Hearing. A hearing shall be provided if requested by the appellant. The hearing shall provide reasonable opportunity for the parties to present oral or written testimony and argument, consistent with these rules. The presiding officer may establish procedures for the hearing, and may set the time period allowed for each party to present its case. A hearing may not be scheduled for at least five (5) days from the district's receipt of an appeal unless the parties agree otherwise.
 7. Final Action. The district shall not take final action on a proposal while a properly fled administrative appeal is pending.
 8. Procedural Determinations. Procedural determinations by the responsible official shall be entitled to substantial weight in administrative appeals.
 9. Other Requisites. WAC 197-11-680(3) is adopted by reference with respect to other requirements of administrative appeal proceedings.
- B. Judicial Review. Parties must exhaust administrative appeals before seeking judicial review of SEPA compliance. RCW 43.21C.075 and WAC 197-11-680.

Notice/Statute of Limitations

The district may publish notice of action pursuant to RCW 43.21C.080 for any action to establish a time limit for judicial appeals.

The form of the notice shall be prescribed by the Department of Ecology and/or substantially in the form and manner set forth in RCW 43.21C.080. The notice shall be published by the district secretary pursuant to RCW 43.21C.080.

Severability

If any provision of these regulations or its application to any person or circumstances is held invalid, the remainder of these regulations or the application of the provision to other persons or circumstances shall not be affected.

Effective Date

These guidelines shall become effective on April 1, 2011.

Legal References:

RCW 43.21C
WAC 197-11

State Environmental Policy
Ecology, Department of Council on
Environmental Policy