

Port of Port Angeles

Port Angeles, Washington

20-1227

Commissioners' Resolution No. _____

A RESOLUTION of the Port Commission of the Port of Port Angeles, Clallam County, Washington, repealing the Port's prior SEPA Resolutions No. 569 and No 08-966, and adopting the Port's updated policies and procedures under the State Environmental Policy Act and implementing rules, chapter 43.21C RCW and chapter 197-11 WAC.

WHEREAS, the State Environmental Policy Act (SEPA) sets forth an environmental policy for Washington state and requires that the environmental impacts of proposals be analyzed and, where appropriate, mitigated; and

WHEREAS, SEPA applies to state agencies, counties, and municipal and public corporations, including port districts; and

WHEREAS, SEPA has been amended to require the State Department of Ecology to issue new uniform statewide rules for carrying out SEPA; and

WHEREAS, the Port is required to adopt SEPA policies and procedures that are consistent with the updated rules adopted by the Department of Ecology (WAC 197-11) and may adopt by reference any or all of these rules; and

WHEREAS, the Port has provided public notice and opportunity for public comment on this resolution;

WHEREAS, the Port desires to update its SEPA policies and procedures to conform to any changes in the law and incorporate best practices consistent with Chapter 43.21C. RCW and WAC 197-11; and

WHEREAS, WAC 197-11-800 (19) exempts the Port's adoption of SEPA procedures from SEPA review; and

NOW, THEREFORE, BE IT RESOLVED, by the Port Commission of the Port of Port Angeles, Washington that the following SEPA policies and procedures replace and restate in their entirety Port Resolutions No 569 and No 08-966 as follows:

PORT OF PORT ANGELES SEPA ENVIRONMENTAL ADMINISTRATIVE REGULATIONS:

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1. Adoption of SEPA Rules:

The Port of Port Angeles (Port) hereby adopts by reference the following sections or subsections of Chapter 197-11 of the Washington Administrative Code (SEPA Rules): WAC 197-11-010 through 197-11-990, except as specifically provided herein. Where conflict exists between a permissive, optional or guidance WAC section adopted by reference herein and the specific local agency SEPA procedures adopted in this Resolution, the language of the Resolution shall apply. The decision on whether to apply an optional state SEPA provision rests with the Responsible Official.

2. Authority:

The following regulations concerning environmental policies and procedures are hereby established and adopted pursuant to Washington State law, Chapter 109, Laws of 1971, Extraordinary Session (Chapter 43.21C RCW) as amended, entitled the "State Environmental Policy Act of 1971," (SEPA), and Washington State Administrative Code (WAC) regulations, Chapter 197-11, entitled "SEPA Rules."

SEPA grants agencies the ability to condition or deny a proposal due to likely significant adverse impact identified in a SEPA document. To use SEPA substantive authority, the Port must have adopted SEPA policies. There are other federal, state and local environmental laws besides SEPA, which apply to specific resources, such as land, air, water historic areas, wildlife, and health. These other laws may require studies or serve as the basis for mitigating or denying a proposal.

3. Port SEPA Policies:

The Port adopts by reference the state environmental policy as set forth in specifically in SEPA, RCW 43.21C.020. In addition to the policies for preservation of the environment set forth in that statute, the Port will use this resolution to promote the following goals:

1. Wise management of public waterways and adjacent lands, and public airport property as detailed in the Port's current strategic plan and comprehensive scheme of harbor improvements.
2. Mitigate probable adverse environmental impacts resulting from proposals, particularly significant impacts resulting from proposals, particularly significant impacts, to the extent of the Port's authority and guided by the policies stated above and in SEPA and the Port's other statutory responsibilities.

4. Purpose, Applicability and Intent:

- 4.1. The purpose of this Resolution is to provide Port policies and regulations implementing Chapter 43.21C RCW, the State Environmental Policy Act of 1971 (SEPA), which are consistent with the SEPA rules.
- 4.2. This Resolution is applicable to all Port departments/divisions, committees, and Port Commission.
- 4.3. The intent of this Resolution is to govern compliance by all Port departments/divisions, committees, and Port Commission with the procedural and substantive requirements of Chapter 43.21C RCW, the State Environmental Policy Act of 1971.
- 4.4. This Resolution addresses compliance with State Environment Policy processes. Use of National Environmental Policy Act of 1969 (NEPA) documents is governed by WAC 197-11- 610.

5. Additional Definitions:

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

- 5.1. "SEPA Rules" means Chapter 197-11 WAC adopted by the Department of Ecology, as it now exists and may be hereafter amended.
- 5.2. "Responsible Official" is the Port's Director of Engineering or his/her designee. The Responsible Official or designee is the person or office at the lead agency in charge of SEPA compliance, and he/she shall carry out the duties and functions of the agency when it is acting as a lead agency. The office and contact information for the Responsible Official is:

Port of Port Angeles
338 W. First Street
Port Angeles, WA 98362
Telephone: (360) 457-8527

6. Timing of the SEPA Process:

- 6.1. The SEPA process shall be integrated with Port activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential environmental issues.
- 6.2. The Responsible Official or designee shall prepare the threshold determination and/or environmental impact statement (EIS), if required, as soon as possible after the principal features of a proposal and its environmental impacts can be reasonably identified.
 - 6.2.1. A proposal exists when the Responsible Official or designee is presented with a project or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated. The fact that proposals may require future Port or other permitting approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

6.2.2. The environmental process shall commence upon receipt by the Responsible Official or designee of an environmental document. The Responsible Official or designee may also organize environmental review in phases as specified in WAC 197-11-060(5).

6.2.3. Appropriate consideration of environmental information shall be completed before the Responsible Official or designee commits to a particular course of action (WAC 197-11- 070).

7. Public Notice:

7.1. Reasonable Means: When notice is required pursuant to this Resolution, Chapter 197-11 WAC, and/or Chapter 43.21C.RCW, the Responsible Official or designee must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held.

7.2. Notice Requirements:

7.2.1. Notice of the SEPA threshold environmental determination, scoping notices, EISs and public hearings, if any, shall be provided by:

1. Via electronic mail to:
 - a. Department of Ecology (SEPA Register)
 - b. All agencies with jurisdiction (state, local and federal)
 - c. Affected tribes
 - d. All local agencies whose public services would be affected by the proposal.
2. Publish notice in a newspaper of general circulation in the area where the proposal is located.
3. Post on the Port's web page.
4. Furnish notice to anyone who specifically requested to be notified about the particular proposal or about the type of proposal being considered.

The electronic mailed notice shall include a copy of the determination and a copy of the SEPA checklist, or a link to the location on the Port web page where these SEPA documents can be found. All forms of notice described herein shall also inform recipients of: (a) where the agency SEPA records are located and available, (b) the extent of the public comment period as required by chapter 197-11 WAC, and (c) the applicable appeal procedures.

8. Comments:

8.1. Any person wishing to preserve the option for challenging a Port SEPA threshold determination and adequacy of final environmental impact statement by filing a Request for Reconsideration with the Responsible Official or designee must first timely submit written comments to the Port's SEPA action within the 14-day comment period for the SEPA determination. Timely submittal of a SEPA comment is a mandatory condition precedent to filing a Request for Reconsideration.

8.2. The Port's Responsible Official or designee may respond in writing to all written comments received on a specific SEPA environmental review or determination. The Port's Comment response may be in the form of Individual responses, or responses to all or a portion of the comments addressed cumulatively. If the Port chooses to issue response to comments, the Port's response will generally issue

within 7 days of the close of the comment period. Public comments, Port comment responses, and any resulting subsequent amendments or addendums will be part of the Port's SEPA administrative record. The Port's written Response to Comments shall be an addendum pursuant to WAC 197-11-706. An "addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document." WAC 197-11-706.

8.3. The Port is encouraged but is not required to circulate its Response to Comment Addendum to interested persons. WAC 197-11-625 (5): "Agencies are encouraged to circulate addenda to interested persons. Unless otherwise provided in these rules, however, agencies are not required to circulate an addendum." The Port's issuance of the Response to Comments Addendum will not restart the administrative comment or appeal period(s) pursuant to WAC 197-11-706.

9. Appeals:

There shall be no administrative appeals of Port SEPA determinations (including appeals of conditions or denials by Port staff under RCW 43.21C.060).

9.1. No Exhaustion of Remedies: Because there are no administrative appeals, a person is not required to request informal reconsideration prior to filing a lawsuit under SEPA.

9.2. Judicial Appeal: If the Port wishes to commence the SEPA statute of limitation for its proposal, it shall typically do so by filing a Notice of Action under RCW 43.21C.080. The Port may decide to use any other procedure allowed by RCW.43.21C.075, WAC 197-11-680, or any other applicable law. The Port's final SEPA decision shall be appealable to the Superior Court of the State of Washington for Clallam County. Any court actions to set aside, enjoin, review or otherwise challenge the SEPA decision shall be filed in Superior Court and served on the Port within 21 days of the date of the Port's written final decision was issued.

10. Minor New Construction Flexible Thresholds for Categorical Exemptions:

10.1. Adoption: The Port adopts the respective exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c), as established by the City of Sequim, City of Port Angeles and Clallam County and any other jurisdiction wherein the Port activity is located, as they now exist and/or as amended hereafter.

10.2. Process: Documentation optional. A decision that a proposed action is categorically exempt need not be documented. A memorandum or notation may be placed in the file. No public notice is required for this determination and it is not appealable.

11. Emergencies:

Actions which must be undertaken immediately (or within a time too short to allow full compliance with this Resolution), to avoid an imminent threat to public health and safety, to prevent an imminent danger to public or private property, or to prevent imminent threat of serious environmental degradation, will be exempt from the procedural requirements of this resolution. The Responsible

Official will determine on a case-by-case basis emergency actions that satisfy the general requirements of this Section.

12. Port SEPA Public Information Responsibilities:

The Port's SEPA documents are required to be maintained by the Port's Administration Department for 7 years, and shall be available for public inspection, and copies thereof shall be provided upon request. The Port may charge for copies in the manner provided by Chapter 42.56 RCW (Public Records Act) and for the cost of mailing, consistent with adopted Port fees for such services. It shall be the responsibility of the Responsible Official or designee for responding to requests received from other local, regional, State, or Federal agencies requesting consultation and comment from a specific Port department.

13. Critical areas:

The Port adopts the respective designation of areas which are environmentally sensitive pursuant to WAC 197-11-908 as established by the City of Sequim, City of Port Angeles and Clallam County or any other jurisdiction within which the Port activity is located, as those designations now exist and/or as amended hereafter.

14. Lead Agency Responsibilities:

The Port, when acting in the capacity of the lead agency, will be the only agency responsible for complying with the threshold determination procedures of WAC 197-11-300 through 197-11-390 as adopted by reference, and the Responsible Official of the Port will be responsible for the supervision or actual preparation of draft EISs pursuant to WAC 197-11-400 through 197-11-455 as adopted by reference, including the circulation of such statements and the conduct of any public hearings required by this Resolution. The Responsible Official will also prepare or supervise preparation of any required FEIS pursuant to WAC 197-11-360 through 197-11-640 as adopted by reference.

15. Severability:

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

16. Repealer:

All prior Port Resolutions dealing with compliance to the State Environmental Policy Act and particularly WAC 197-11 are hereby repealed by the adoption of this Resolution.

17. Effective Date:

This Resolution shall be effective for all SEPA checklists filed with the Port after Commission adoption of this Resolution.

18. Forms:

The forms in WAC 197-960 through -990 are hereby adopted by reference as applicable to the Port and the procedures adopted herein.

ADOPTED this 13th day of October 2020

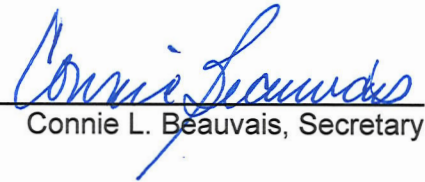
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