

RESOLUTION 1244

A RESOLUTION ADOPTING DISTRICT GUIDELINES FOR COMPLIANCE WITH THE PROVISIONS AND REQUIREMENTS OF THE STATE ENVIRONMENTAL POLICY ACT AND REPEALING RESOLUTION 1053.

A RESOLUTION of the Port Commission of the Port of Bellingham, Whatcom County, Washington ("Port") adopting the Port's 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 or actions be analyzed and, where appropriate, mitigated; and,

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

WHEREAS, the Washington State Department of Ecology issued uniform statewide rules for carrying out the SEPA which are codified at Chapter 197-11 WAC; and,

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

WHEREAS, this Resolution repeals Resolution 1053;

NOW, THEREFORE, BE IT RESOLVED, by the Port Commission of the Port of Bellingham, Washington, as follows:

PART ONE PURPOSE AND AUTHORITY

SECTION 1. PURPOSE AND AUTHORITY

Section 1.1 In broad terms, the SEPA requires the Port to consider environmental impacts before making significant decisions, and to consider measures which could be undertaken to avoid or reduce ("mitigate") the environmental impacts of projects and non-project proposals (collectively "proposal(s)").

Section 1.2 The process the Port uses to consider environmental impacts is the "procedural" component of the SEPA. The Port's decision to approve, condition, or reject a Proposal based upon its environmental impacts or to require any mitigation measures under the authority of the SEPA is the "substantive" component of the SEPA.

Section 1.3 This Resolution contains the Port's SEPA procedures, which detail the environmental review process under the SEPA. This Resolution also contains the Port's SEPA policies, which detail the process for determining if mitigation is required for particular proposals as a result of the SEPA.

Section 1.4 This Resolution adopts by reference the State's SEPA rules issued by the Department of Ecology and codified at Chapter 197-11 WAC, with some modifications and

additions relevant to Port operations. A copy of Chapter 197-11 WAC shall be available at the office named in Section 5.4 below. Each provision adopted by reference in this Resolution is found in the State rules. Chapter 197-11 WAC should, therefore, be used in conjunction with this Resolution.

Section 1.5 Authority. This Resolution is adopted under RCW 43.21C.120, WAC 197-11-902 and WAC 197-11-904, and is intended to implement those provisions.

SECTION 2. SEPA'S APPLICATION TO PORT ACTIVITIES

Section 2.1 The SEPA requires the Port, along with every other public agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public agency.

Section 2.2 The SEPA itself does not have any substantive permit requirements. Rather, the SEPA review occurs when the Port takes some action on a proposal. This action is called the "underlying governmental action."

Section 2.3 Because the SEPA applies only when some underlying governmental action is involved, the SEPA supplements or "overlays" the Port's regular planning and decision making. The SEPA provides a basic process for studying and responding to a proposal's environmental impacts, especially at the planning stages. The exact nature and timing of the SEPA process can vary for each type of underlying governmental action and for each individual proposal.

Section 2.4 There are other environmental laws besides the SEPA which may apply to specific resources such as laws relating to land, air, water, historic areas, wildlife, and health. These other laws may require studies or serve as the basis for mitigating or denying proposals.

Section 2.5 Compliance with other laws and the SEPA shall be coordinated, to the extent the Port can do so, to reduce inefficiencies, improve public involvement, and achieve better decisions.

Section 2.6 Anyone who is not sure how the SEPA applies to a proposal should identify the action (or actions) that the Port and any other government agencies must take on the proposal. Except for certain basic requirements in this document, the SEPA process generally follows the timing and procedures for the underlying governmental action.

SECTION 3. POLICY FOR CARRYING OUT SEPA

Section 3.1 The policies for implementing the SEPA, found at WAC 197-11-030, are adopted by reference.

PART TWO GENERAL REQUIREMENTS

SECTION 4. PURPOSE/ADOPTION BY REFERENCE

Section 4.1 This part covers the basic requirements that apply across-the-board to the SEPA process. The State rules in WAC 197-11-040 through 100 are adopted by reference. They include:

1. Where to find the meaning of the words used in this document (definitions, WAC 197-11-040 and Part 8).
2. Who is responsible for SEPA compliance (lead agency, WAC 197-11-050).
3. When the SEPA process occurs (timing, WAC 197-11-055).
4. What is to be studied (content of environmental review, WAC 197-11-060).
5. What can or cannot be done while environmental review is occurring (limitations on actions during the SEPA process, WAC 197-11-070).
6. What to do in the face of serious uncertainty (incomplete or unavailable information, WAC 197-11-080).
7. What is considered part of the record (supporting documents, WAC 197-11-090).
8. What information applicants can be required to provide (information required of applicants, WAC 197-11-100).

SECTION 5. WHO RUNS THE PORT'S SEPA PROCESS

Section 5.1 Lead agency. The agency in charge of carrying out the SEPA's procedural requirements for a proposal is the lead agency. A lead agency is selected for each particular proposal. The Port will typically be the lead agency for its proposals. However, another government may be the lead agency for a Port project depending on the size of the project, the number of government or departments involved, and the location of the project.

Section 5.2 Responsible Official. The person or office at the lead agency in charge of the SEPA compliance is the responsible official (the "Responsible Official"). The Port's Responsible Official is the Port's Director of the Environmental Programs for projects initiated after the approval of this Resolution. The Responsible Official may consult with the proponents of the proposal concerning the SEPA process. Subject to budgetary authorization, the Responsible Official may retain and consult with such other experts as may be necessary to perform the duties described herein.

Section 5.3 Alternate Responsible Official. The Port Commission may, by motion or resolution, appoint an alternate responsible official for any particular proposal or for a period of time. After the date of such appointment, the alternate responsible official shall undertake the duties of the Responsible Official, as provided herein, for the particular proposal or the specified period of time, and the Responsible Official shall thereafter be relieved of any further duties on the proposal or for the specified period of time. The alternate responsible official does not necessarily need to be a Port employee. The person designated as the alternate responsible official shall become an "officer" of the Port for the purposes of WAC 197-11-788.

Section 5.4 SEPA Public Information. The office that routinely handles SEPA public information matters at the Port is:

Environmental Division
Port of Bellingham
1801 Roeder Avenue
Post Office Box 1677
Bellingham, WA 98227
Telephone: (360)676-2500
Facsimile: (360)671-6411

Subject to the requirements of the Public Records Act (Chapter 42.56, RCW), this office will (i) provide information about environmental documents, (ii) identify the Responsible Official for a specific proposal, (iii) provide the status of the SEPA review for a project or proposal, or (iv) provide direction concerning SEPA compliance. If the official does not know the answer, they can help direct you to the right person or office. There may be a charge for certain documents (WAC 197-11-914).

Section 5.5 Other Agencies. Other agencies that have action to take on a proposal are agencies with jurisdiction. Other agencies that know about certain environmental impacts are agencies with environmental expertise. If the Port, as lead agency, asks these other agencies to help review a proposal's environmental impacts, those other agencies are required to help without charge and are consulted agencies. The Responsible Official shall be responsible for coordinating and preparing environmental documents with these other agencies (also see Section 13 below).

Section 5.6 Federal Coordination. Federal agencies are directed to cooperate with state and local agencies to the fullest extent possible to reduce duplication between the National Environmental Policy Act ("NEPA") and state and local requirements. The Responsible Official shall make an effort to coordinate environmental review requirements with applicable federal agencies, including combining documents and holding joint scoping, public meetings and hearings, as directed and encouraged by this Resolution and the federal provision for eliminating duplication (40 CFR 1506.2).

SECTION 6. TIMING

Section 6.1 In conjunction with WAC 197-11-055, the Responsible Official has discretion to decide the appropriate time for reviewing the environmental impacts of Port projects or proposals on an individual, case-by-case basis. For purposes of this section, the terms "final threshold determination" and "final environmental impact statement" include any documents prepared under Part Six below, such as adoption notices, that are used to meet environmental review requirements on a proposal.

Section 6.2 Typical Port Actions. The SEPA review of typical Port proposals shall occur, except that environmental review is not required for actions that are categorically exempt under Part Nine and WAC 197-11-305. If required, a final threshold determination or final environmental impact statement shall be completed, within the time periods required by these procedures, prior to Commission approval of:

1. Improvements to be constructed by the Port or on Port property;

2. Leases or contracts for development by the Port or on Port property;
3. A change in the use of a facility that involves different environmental impacts than currently exist; or
4. Amendments to a Port comprehensive scheme of harbor improvements.

Section 6.3 Committee Review. The Commission may elect to establish a standing committee to review proposals and make recommendations to the Commission. If the Port has established such a standing committee, the Responsible Official may, but shall not be required to, provide the committee with a final threshold determination or final environmental impact statement prior to the committee's recommendation to the Commission on whether to approve the proposal.

Section 6.4 Advisory Bodies. To the extent the Port establishes an advisory body similar to a standing committee for purposes of making recommendations to the Commission, the Responsible Official may, but shall not be required to, provide the advisory body with a final threshold determination or final environmental impact statement before any final recommendation is transmitted to the Commission.

Section 6.5 Applicant Early Review. If the Port's only action on a proposal is a decision on a written approval to an applicant based upon submission of detailed project plans and specifications, the applicant may request, in writing, that the Port conduct environmental review prior to the submission of detailed plans and specifications.

Section 6.6 Preferred Alternative. The Commission or staff may identify a preferred alternative at any time in the SEPA process orally or in an environmental or other document. The identification of a preferred alternative shall not be construed as an improper commitment to, or as a final decision on, a particular proposal.

Section 6.7 Industrial Revenue Financing. Inasmuch as the borrowing of funds, issuance of bonds, and related financing agreements and approvals are categorically exempt under WAC 197-11-800(14)(d), the adoption of a bond resolution by the Commission or by the Industrial Development Corporation of the Port of Bellingham, a public corporation under Chapter 39.84 RCW, or subsequent Commission approval of such resolution, may occur prior to environmental review on the proposal for which the funding is sought. Environmental review under the SEPA, if required, must be completed prior to actual project approval by the Port and/or other State or local agencies with jurisdiction.

SECTION 7. SUPPORTING DOCUMENTS

Section 7.1 All supporting documents cited in environmental documents on a proposal shall be considered part of the Port's overall record of compliance with the SEPA if the supporting documents are publicly available substantially within any time periods allowed for review or comments. The documents will be available at the office named in Section 5.4 above unless otherwise noted. Economic, business, technical, or other reports or analysis may be prepared, combined with, or appended to, environmental documents even though they are not required under the SEPA.

**PART THREE
CATEGORICAL EXEMPTIONS AND
THRESHOLD DETERMINATIONS**

SECTION 8. PURPOSE/ADOPTION BY REFERENCE

Section 8.1 This part contains the rules for deciding whether a proposal has a “probable significant, adverse environmental impact” requiring an environmental impact statement (“EIS”) to be prepared. RCW 43.21C.031. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The State rules in WAC 197-11-300 to 400 are hereby adopted by reference. They include:

1. Not requiring review for proposals that are categorically exempt (WAC 197-11-305 and Part 9).
2. The requirements to make a threshold determination and deciding whether the impacts are environmentally significant -- for non-exempt proposals (WAC 197-11-310).
3. Use of an environmental checklist for project and non-project proposals (WAC 197-11-315).
4. The process and criteria for making a threshold determination (WAC 197-11-330).
5. How to handle insufficient information on a proposal (WAC 197-11-335).
6. Deciding an EIS is not required and issuing a determination of non-significance (“DNS”) (WAC 197-11-340).
7. Including mitigating measures in a DNS (WAC 197-11-350).
8. Deciding an EIS is required and issuing a determination of significance/ scoping notice (WAC 197-11-360).
9. When a threshold determination is final (WAC 197-11-390).

SECTION 9. CATEGORICAL EXEMPTIONS

Section 9.1 In deciding whether a proposal is categorically exempt, the rules provide for certain circumstances when potentially exempt actions would not be exempt (WAC 197-11-305).

Section 9.2 City/County Thresholds. For minor new construction, the SEPA procedures of the city or Whatcom County where the proposal is located should be reviewed to determine the exempt levels that apply to the proposal (See WAC 197-11-800(1)). Local ordinances and the local SEPA procedures should also be reviewed to determine if the proposal is located in an environmentally sensitive area under WAC 197-11-908.

Section 9.3 Proposals With Exempt and Non-exempt Parts. In determining whether a proposal is exempt, the Port shall make an effort to be certain the proposal is properly defined

(WAC 197-11-060). If a proposal includes exempt and non-exempt actions, the proposal is not exempt and requires environmental review; however, certain exempt aspects of the proposal may nonetheless proceed, before or during the environmental review of the proposal, if the requirements of WAC 197-11-070 are met.

Section 9.4 Documentation Optional. A decision that a proposal is categorically exempt need not be documented. A memorandum or notation may be placed in the file.

SECTION 10. MITIGATED DETERMINATION OF NON-SIGNIFICANCE (DNS)

Section 10.1 At the Commission or staff level, mitigation measures may be included in, or added to, a proposal so that environmental impacts are eliminated that might otherwise be significant. Mitigation measures may also serve to reduce significant impacts or to mitigate non-significant impacts (WAC 197-11-350). Changes or clarifications do not require a new environmental checklist (WAC 197-11-350(4)). Mitigation measures for significant impacts that are included in a decision must be documented (Section 19 below). Although public notice is not required by State law, when the Port clarifies or changes features of its own proposals in a mitigated DNS (WAC 197-11-350(5)), public and agency notice and a fifteen (15) day waiting period are required for mitigated DNSs on proposals (WAC 197-11-340(2)(a)(iv)) and Section 15 below).

PART FOUR ENVIRONMENTAL IMPACT STATEMENT (EIS)

SECTION 11. PURPOSE/ADOPTION BY REFERENCE

Section 11.1 This part contains the rules for preparing environmental impact statements. The State rules in WAC 197-11-400 to 500 are hereby adopted by reference. They include:

1. Purpose of an EIS (WAC 197-11-400).
2. Ten requirements that apply to the preparation of EISs (WAC 197-11-402).
3. Three types of EISs: Draft, final, and supplemental (WAC 197-11-405).
4. When EISs must be prepared (WAC 197-11-406).
5. How to decide the scope of an EIS through scoping (WAC 197-11-408).
6. Optional expanded scoping (WAC 197-11-410).
7. Who can prepare EIS? (WAC 197-11-420).
8. Style and size of EISs, including page limits (WAC 197-11-425).
9. Format of EISs, including flexibility for different types of proposals (WAC 197-11-430).
10. A 1-2 page cover memo that highlights issues for decision makers, but is not used to determine adequacy (WAC 197-11-435).

11. EIS content, including the required five sections: the fact sheet, table of contents, summary, and two main sections of text (WAC 197-11-440).
12. Rules on the content of EISs on non-project proposals, such as proposed plans (WAC 197-11-442).
13. Rules on the content of EISs on proposed projects when there has already been a non-project EIS (WAC 197-11-443).
14. The various elements of the environment, consisting of the natural and built environment (WAC 197-11-444).
15. The relationship of EISs to other considerations in planning and decisions, such as economic, social, or technical factors (WAC 197-11-448).
16. The relationship of EISs to quantified cost-benefit analysis, (WAC 197-11-450).
17. The procedures for issuing a draft EIS (WAC 197-11-455).
18. The procedures for issuing a final EIS (WAC 197-11-460).

Section 11.2 Scoping. The Responsible Official shall decide the scoping method and deadline for a given proposal, consistent with WAC 197-11-408. Special attention should be given to writing scoping notices in plain English and avoiding technical jargon. Scoping techniques can vary by proposal, and may include commenting by telephone. If a consultant is preparing an EIS, the consultant's contract should make provisions for possible changes in the scope of the EIS based upon the scoping process.

Section 11.3 Additional Scoping. The expanded scoping provisions in WAC 197-11-410 may be used without formally designating the process as "expanded scoping." In keeping with the intent of the State rules, the Responsible Official is encouraged to be innovative and shall have very broad discretion in developing creative scoping methods. A scoping process may also be used before a threshold determination (or at any other time in the SEPA process) to assist in identifying impacts and alternatives, including mitigation measures. If so, the form of the scoping notice shall be revised accordingly so that agencies and members of the public understand the purpose and process being used.

Section 11.4 EIS Preparer. An EIS may be prepared by Port staff, consultants on contract to the Port, or other private entities under the direction of the Responsible Official. Port staff or an applicant may consult with the Responsible Official prior to final selection of consultants to help ensure that the highest quality EIS is prepared. The Responsible Official shall have the discretion to design the EIS process and carry out the responsibilities set forth in WAC 197-11-420.

PART FIVE COMMENTING

SECTION 12. PURPOSE/ADOPTION BY REFERENCE

Section 12.1 This part explains how to comment and respond on all environmental documents under the SEPA, including rules for public notice and hearings. WAC 197-11-500 to 600 are hereby adopted by reference. They include:

1. The purpose of the commenting provisions and list of notice and time requirements (WAC 197-11-500 and 502).
2. Making environmental documents available (WAC 197-11-504).
3. Filing with State SEPA REGISTER (WAC 197-11-508).
4. Giving reasonable public notice (WAC 197-11-510), as further specified below.
5. Public hearings and meetings procedures (WAC 197-11-535).
6. The effect on agencies and the public of not commenting on environmental documents (WAC 197-11-545).
7. Specific commenting requirements (WAC 197-11-550).
8. Response to comments on EISs (WAC 197-11-560).
9. Prohibiting consulted agencies from charging lead agencies for assistance under the SEPA (WAC 197-11-570).

SECTION 13. PORT SEPA COMMENTS TO OTHER AGENCIES

Section 13.1 The Responsible Official shall be responsible for coordinating and preparing Port comments to other agencies on the environmental documents of other agencies. This Responsible Official shall also be responsible for coordinating consultation requests under the SEPA from other agencies to the Port. The Responsible Official, or his/her designee, shall sign written comments from the Port and may establish deadlines for responses from offices within the Port in order to meet commenting deadlines established by law or by other agencies in their requests.

SECTION 14. COSTS FOR PORT ENVIRONMENTAL DOCUMENTS

Section 14.1 Normally, the Port will charge its actual cost of printing for its environmental documents (or its normal per page copying charge as adopted pursuant to RCW 42.56). There will be no charge for other agencies to which the Port is required by law to send the documents. The Port may make documents available without charge. The Port will, if requested, reduce or waive charges for a document provided to a public interest organization. The Responsible Official may establish internal policies or procedures or make determinations on an individual basis.

SECTION 15. PUBLIC NOTICE

Section 15.1 In addition to the circulation requirements to other agencies and affected tribes, the Port will give public notice in the manner noted below.

Section 15.2 Required Notice. For threshold determinations that require notice under WAC 197-11 scoping notices, EISs, and public hearings, the Port shall:

1. Publish the notice in a newspaper of general circulation in Whatcom County, Washington;
2. Provide notice in the same manner as required for the announcement of regular Port Commission meetings;
3. Furnish notice to anyone who has specifically requested to be notified about the particular proposal or about the type of proposal being considered;
4. Post a notice on the main bulletin board, if any, at the Port's administrative offices;
5. File the documents required by WAC 197-11-508 with the State Department of Ecology for publication of notice in the SEPA REGISTER; and
6. (For EISs only) notify the local news media where the proposal is located that an EIS is available.

Section 15.3 Additional Optional Notice. For any environmental documents or public meetings, the Port may:

1. Publish notice in Port newsletters, if any, that might facilitate commenting;
2. Notify the news media orally or by press release, including neighborhood newspapers or trade journals;
3. Post the property for site specific proposals;
4. Post a notice on the main bulletin board, if any, at the city or county council or planning department where the proposal is located;
5. Create or maintain a mailing list for a particular proposal or type of proposal, which may include the identification of citizen and public interest organizations, and send notice to those on the mailing list; or
6. Use other reasonable methods appropriate to a particular proposal.

Section 15.4 Early Notice/Port Capital Improvements. In January of each year, the Responsible Official may elect to place a notice in the newspaper of general circulation. The notice, if placed, shall describe the nature and general location of all non-exempt Port capital improvements anticipated to be initiated during the year for which no environmental determination has been made. The purpose of the notice is to provide an opportunity for interested parties to have their name and mailing address placed on a notification list so that

they can be made aware of when an environmental determination is being conducted on a particular proposal. In addition to stating the project of concern, the interested party is encouraged to offer general environmental areas of concern, if any, on the proposal to the Responsible Official. The notice shall run on the same day for two consecutive weeks.

Section 15.5 Notice for Appeals. For judicial appeals, the Port shall use the notice procedures for the Notice of Action set forth in RCW 43.21C.080, unless other appeal procedures are used under Part Seven below.

PART SIX USING EXISTING ENVIRONMENTAL DOCUMENTS

SECTION 16. PURPOSE/ADOPTION BY REFERENCE

Section 16.1 This part contains rules for the Port's use of existing environmental documents for its SEPA compliance. The documents might be prepared by the Port or by local, State or federal agencies under SEPA or NEPA (National Environmental Policy Act, 43 USC 4321 et seq.) The State rules in WAC 197-11-600 through 640 are hereby adopted by reference. These rules include:

1. When to use existing environmental documents (WAC 197-11-600).
2. Use of NEPA documents, including environmental assessments (WAC 197-11-610).
3. Procedures for supplemental EIS (SEIS) (WAC 197-11-620).
4. Procedures for addenda (WAC 197-11-625).
5. Procedures for adoption of an existing environmental document (WAC 197-11-630).
6. Procedures for incorporation by reference of existing material (WAC 197-11-635).
7. How to combine the SEPA and other documents (WAC 197-11-640).

SECTION 17. ADDENDA

Section 17.1 If monitoring reports are part of mitigation commitments, the required monitoring report(s) may be labeled as an addendum to the original environmental documents (the DNS or EIS). If subsequent environmental design, detail, or other environmental analysis is necessary or desirable, and an SEIS is not required (it does not meet the two criteria in WAC 197-11-600(3)(b)), then an addendum may be used to conduct or document the analysis. An addendum may be used to add to any kind of environmental document, and may be used at any time in the SEPA process.

**PART SEVEN
SEPA AND AGENCY DECISIONS**

SECTION 18. PURPOSE/ADOPTION BY REFERENCE

Section 18.1 This part contains rules and policies for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations. The State rules in WAC 197-11-650 to 680 are hereby adopted by reference. They include:

1. Purpose and implementation of decision making under SEPA (WAC 197-11-650 and 655).
2. Substantive authority and mitigation (WAC 197-11-660).
3. Appeals (WAC 197-11-680).

SECTION 19. PORT DECISION DOCUMENT

Section 19.1 After its decision on any proposal not exempt under the SEPA, the Port shall make available to the public a document that states the decision. The document shall specify any mitigation or monitoring that will occur or will reference the appropriate documents where any mitigation or additional monitoring is described. The document may be a resolution, letter, or other document used by the Port to convey its decision. The document may incorporate by reference relevant portions of environmental documents. (WAC 197-11-660(1)(b))

Section 19.2 Private Projects. To the extent the Port conditions or denies proposals of applicants under the SEPA, the document required by the preceding section shall cite the Port's SEPA policy (from Section 20 below) that is the basis for conditioning or denying the proposal. If the Port wishes to deny an applicant's proposal, the decision document shall also contain the findings required by WAC 197-11-660(1)(f) that significant adverse impacts have been identified in the EIS and that reasonable mitigation measures are insufficient to mitigate the identified impact.

SECTION 20. PORT SEPA POLICIES

Section 20.1 The Port adopts by reference the State environmental policy as set forth in the SEPA: RCW 43.21C.020. Specifically, in order to carry out the policy set forth in the SEPA, it is the Port's continuing responsibility to use all practicable means and measures, consistent with other essential considerations of State policy, to improve and coordinate plans, functions, programs, and resources to the end that the Port district, the State, and its citizens may:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assure for all people of Washington State safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

3. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, including from hazardous waste or other toxic substances, or other undesirable or unintended consequences;
4. Preserve important historic, cultural, and natural aspects of our national heritage;
5. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
6. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;
7. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;
8. Manage public waterways and adjacent lands, fisheries, and other natural resources wisely; and
9. Mitigate probable adverse environmental impacts resulting from proposals, particularly significant impacts, to the extent of the Port's authority and guided by the policies stated above and in the SEPA and the Port's other statutory responsibilities.

Section 20.2 The Port also adopts by reference its comprehensive scheme of harbor improvements and amendments thereto under Chapter 53.20 RCW as a basis for the exercise of substantive authority under the SEPA.

Section 20.3 The policies and goals set forth in this Resolution are supplementary to those set forth in the Port's existing authorization.

SECTION 21. APPEALS

Section 21.1 There shall be no administrative appeals of Port SEPA determinations (including appeals of any conditions or denials by Port staff under RCW 43.21C.060).

Section 21.2 Informal Reconsideration. Any person may formally request the Responsible Official to reconsider a SEPA determination orally or in writing. The Responsible Official shall reconsider the determination and provide a written response. However, this is not to be considered a formal appeal within the meaning of RCW 43.21C.075 and WAC 197-11-680, the Responsible Official is not required to make a record or furnish reasons for the decision.

Section 21.3 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 the SEPA.

Section 21.4 Judicial Review. When the Land Use Petition Act, Chapter 36.70C RCW, ("LUPA") applies to a Port proposal, all judicial appeals must be brought under the applicable LUPA statute of limitations. If LUPA does not apply, the Port may commence the SEPA statute of limitations for its proposals by filing a Notice of Action under RCW 43.21C.080. The Port may

decide in a particular situation to use any other procedure allowed by RCW 43.21C.075 and WAC 197-11-680.

PART EIGHT DEFINITIONS

SECTION 22. UNIFORM USAGE AND DEFINITIONS

Section 22.1 This part contains uniform usage and definitions of terms under the SEPA. WAC 197-11-700 to 799 are hereby adopted by reference, unless the definition is inconsistent with the definitions herein.

1. **Alternate Responsible Official.** "Alternate Responsible Official" means the person designated by the Commission to act as a Responsible Official for a particular proposal or for a particular period of time.
2. **Commission.** "Commission" means the Port Commission of the Port of Bellingham.
3. **Port.** "Port" means the Port of Bellingham, Unless specified, the Port may refer to the Port Commission or staff.
4. **Port offices.** "Port offices" means the administrative offices of the Port currently located at 1801 Roeder Avenue, Bellingham, Washington, 98225 or such other place as the Port offices may be located.
5. **Preferred alternative.** "Preferred alternative" means a preference for a particular alternative course of action, at the time the preference is expressed. A preferred alternative is not an action or decision within the meaning of WAC 197-11-070.
6. **Responsible Official.** The "Responsible Official" is the person designated by the Commission responsible for SEPA procedural and substantive compliance by the Port. The Responsible Official does not necessarily need to be a Port employee. The person designated as the Responsible Official shall become an "officer" of the Port for the purposes of WAC 197-11-788.
7. **Staff.** "Staff" means the executive director of the Port and his designees, not the Port Commissioners.

PART NINE CATEGORICAL EXEMPTIONS

SECTION 23. ADOPTION BY REFERENCE

Section 23.1 The categorical exemptions provisions in WAC 197-11-800, 880 and 890 are hereby adopted by reference and shall be applied in conjunction with Section 9 above and WAC 197-11-305. They include:

1. Categorical exemptions for all agencies (WAC 197-11-800).
2. Emergencies (WAC 197-11-880).

3. Petitions to the Department of Ecology (WAC 197-11-890).

PART TEN AGENCY COMPLIANCE

SECTION 24. ADOPTION BY REFERENCE

Section 24.1 The provisions in WAC 197-11-914 through 955 are hereby adopted by reference. They include:

1. SEPA fees and costs that may be charged (WAC 197-11-914).
2. The list of agencies with environmental expertise (WAC 197-11-920).
3. The rules for determining lead agency (WAC 197-11-922 through 943).
4. The effective date and application of the statewide rules and this Resolution to Port activities (WAC 197-11-916 and 955).

SECTION 25. TRANSITION TO NEW RULES

Section 25.1 EISs, which are issued after this Resolution is effective, shall follow the format and requirements of Part Four above. Environmental documents and notices issued prior to the effective date of this Resolution, including draft, final, or supplemental EISs, do not require revision or re-issuance to meet the requirements of this Resolution or the State rules (WAC 197-11-916).

SECTION 26. REVISION OF SEPA POLICIES OR PROCEDURES

Section 26.1 The Port may amend its SEPA policies or procedures from time-to-time as may be necessary. The Responsible Official may provide additional guidance and procedures to carry out this Resolution.

SECTION 27. INTERPRETATION

Section 27.1 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.

Section 27.2 The captions and titles herein are for convenience and reference purposes only and in no way define, limit or describe the meaning, scope or intent of this Resolution.

Section 27.3 The use of any gender or neutral term shall include all genders, and the use of any terms shall be construed as singular or plural, as the case may be.

**PART ELEVEN
FORMS**

SECTION 28. FORMS

Section 28.1 The forms in WAC 197-11-965 through 990 are hereby adopted by reference as applicable to the Port and the procedures adopted herein.

**PART TWELVE
PREVIOUS RESOLUTIONS**

SECTION 29. PREVIOUS RESOLUTIONS

Section 29.1 Port of Bellingham Resolution 822 dated September 20, 1984, Resolution 941 dated December 4, 1990, and Resolution 1053 are hereby superseded by this Resolution.

DATED this 17th day of April, 2007.



PRESIDENT



SECRETARY



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