

RESOLUTION NO. 3028

A RESOLUTION of the Port Commission of the Port of Seattle, King County, Washington, adopting the Port's policies and procedures to implement the State Environmental Policy Act and its implementing rules, Chapter 43.21C RCW and Chapter 197-11 WAC, and repealing all prior resolutions pertaining to the same subject matter.

WHEREAS, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, 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, the Port has previously adopted policies and procedures consistent with the SEPA Rules, Chapter 197-11 WAC, adopted by the Washington Department of Ecology; and

WHEREAS, the Port most recently adopted its own procedures implementing SEPA by Resolution No. 2938 as amended, and 2973, which are superseded by this resolution; and

WHEREAS, the Port Commission from time to time finds it necessary to amend and revise such policies and procedures due to changes in law and/or operations of the Port and in order to improve the effectiveness of such policies and procedures; and

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

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

PART ONE

PURPOSE AND AUTHORITY

Section 1 Purpose and Authority. This part summarizes the purpose of this resolution and of SEPA's relationship to the other laws under which the Port operates.

Section 1.1 In broad terms, SEPA requires the Port to: (1) consider environmental impacts before making important decisions; and (2) act to protect the environment by avoiding or reducing ("mitigating") the environmental impacts of proposals, in the context of other vital public goals.

Section 1.2 The process the Port uses to consider environmental impacts is the "procedural" side of SEPA. A Port decision to approve, condition, or reject a proposal or to require any mitigation measures--under the authority of SEPA--is the "substantive" side of the Act.

Section 1.3 This resolution contains the Port's SEPA procedures, which spell out the environmental review process under SEPA. This resolution also contains the Port's SEPA policies, which spell out the basis for rejecting or putting mitigating conditions on proposals as a result of SEPA.

Section 1.4 This resolution adopts by reference the SEPA Rules issued by the Washington Department of Ecology, with some modifications and additions relevant to Port operations. The state rules can be found in Chapter 197-11 of the Washington Administrative Code (WAC) and at the Port's Engineering Department. Each provision adopted by reference in this resolution is found in these statewide 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 and WAC 197-11-902 and WAC 197-11-904, and is intended to implement those provisions.

Section 2 SEPA's Application to Port Activities. SEPA requires the Port, along with every other agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public body.

Section 2.1 SEPA itself does not have any permit requirements. SEPA review occurs when the Port takes some other action on a proposal, such as approving lease or authorizing a public development project. This other action is called the "underlying governmental action."

Section 2.2 Because SEPA applies only when some governmental action is involved, SEPA supplements, or "overlays," the Port's regular planning and decision-making. 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 governmental action and for each individual proposal.

Section 2.3 There are other 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 procedures.

Section 2.4 Compliance with other laws and SEPA shall be coordinated, to the extent the Port can do so, to reduce red tape, improve public involvement, and achieve better decisions.

Section 2.5 Anyone who is not sure how SEPA applies to a proposal or an appeal 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. The state rule containing policies for implementing SEPA as intended by the legislature, WAC 197-11-030, is adopted by reference.

PART TWO

GENERAL REQUIREMENTS

Section 4 Purpose/Adoption by Reference. 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 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); and
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 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 and public projects, including projects proposed by private parties or tenants on Port properties.

Section 5.2 Responsible Official. The person or office at the lead agency in charge of SEPA compliance is called the responsible official. The Port's responsible official is the Director of Marine Terminals, Port of Seattle, P.O. Box 1209, Seattle, WA 98111 (206) 728-3374 for waterfront proposals and the Director of Facilities and Real Estate, Port of Seattle, P.O. Box 68727, Seattle, WA 98168 (206) 248-7462 for airport proposals.

Section 5.3 Delegation. The responsible official may delegate his or her responsibilities orally or in writing to another Port official with the authority to carry them out.

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

Environmental Planning Section
Engineering Department
P.O. Box 1209
Seattle, WA 98111
(206) 728-3190

This office will provide information about environmental documents, the identity of the responsible official for a specific proposal, the status of SEPA review for a proposal, or answer other questions about SEPA compliance. This office will also help direct those inquirers requiring further assistance to the appropriate individual/office. There may be a charge for certain documents (WAC 197-11-914).

Section 5.5 Other Agencies. Other agencies that have actions to take on a proposal are called agencies with jurisdiction. Other agencies that know about certain environmental impacts are called 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 called consulted agencies. The Port's Environmental Planning Section shall be responsible for coordinating and preparing environmental documents with these other agencies (also see Section 13 below). The Port may make interagency agreements on the preparation of environmental studies, whether or not there is a lead agency or a SEPA document involved.

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. In conjunction with WAC 197-11-055, the responsible official has discretion to decide the appropriate time for reviewing the environmental impacts of Port 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 6 below, such as adoption notices, that are used to meet environmental review requirements on a proposal.

Section 6.1 Typical Port Actions. SEPA compliance is required for all Port activities that meet the definition of "action" in WAC 197-11-704. Except for those actions that are categorically exempt under Part 9 and WAC 197-11-305, a final threshold determination or final environmental impact statement, if required, shall be completed prior to final Port approval of actions subject to SEPA, such as:

1. Improvements to be constructed by the Port or on Port property;
2. Leases or contracts for Port developments; or
3. A change in use for a facility that involves different environmental impacts than currently exist.

Section 6.2 Committee Review. If the Port has a standing committee which reviews proposals and makes recommendations to the Commission, the committee shall review any required final threshold determination or final environmental impact statement prior to the committee's recommendation to the Commission on whether to approve the proposal.

Section 6.3 Advisory Bodies. To the extent the Port establishes a standing advisory committee or citizens advisory committee on specific proposals or sites, the responsible official shall inform that committee of the availability of environmental checklists or EISs on any proposals which that committee is known to be reviewing and shall provide copies upon request. To the extent the Port establishes any advisory body similar to a planning commission (i.e., an advisory body which is required by Commission resolution or other law to review and make recommendations on a proposal prior to Commission action), the responsible official shall provide that committee with any required final threshold determination or final environmental impact statement prior to that committee's final recommendation to the Commission on whether to approve the proposal.

Section 6.4 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. The Port shall initiate review of the proposal at the conceptual stage, if requested. The Port may require additional environmental review on detailed plans and specifications at a later date.

Section 6.5 Preferred Alternative. The Commission, its committees, or staff may identify a preferred alternative at any time in the SEPA process orally or in an environmental or other 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 or course of action.

Section 6.6 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(15)(d), the adoption of a bond resolution by a public corporation providing for the issuance of revenue bonds under Chapter 39.84 RCW and subsequent Commission approval of such resolution may occur prior to environmental review on the project. Environmental review under SEPA, if required, must be completed prior to final project approval by the Commission and/or other state or local agencies with jurisdiction.

Section 7 Document Information.

Section 7.1 Labels on Impacts in Documents. Impacts are not required to be labeled and labeling of an environmental impact shall not be considered an exclusive description of the type of impact in an environmental document. Rather, the context or analysis applicable to the impact shall be the relevant factor. For example, an impact referred to as a "short term impact" or a "construction impact" may also be an indirect or cumulative impact. Similarly, the fact that a certain impact is called a "cumulative impact" does not mean that other impacts are not cumulative because they are not so labeled.

Section 7.2 Supporting Documents. All supporting documents cited in environmental documents on a proposal shall be considered part of the Port's overall record of compliance with SEPA as long as the supporting documents are publicly available during any applicable time periods. The documents will be available at the Port's Engineering Department, unless otherwise noted. Economic, business, technical, or other reports or analyses may be prepared, combined with or appended to environmental documents even though they are not required under SEPA.

PART THREE

CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

Section 8 Purpose/Adoption by Reference. 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 requirement to make a threshold determination--deciding whether the impacts are environmentally significant--for non-exempt proposals (WAC 197-11-310);
3. Use of an environmental checklist for project and nonproject 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 nonsignificance--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--DS (WAC 197-11-360); and
9. When a threshold determination is final (WAC 197-11-390).

Section 9 Categorical Exemptions. In deciding whether a proposed action is categorically exempt, the rules provide for certain circumstances when potentially exempt actions would not be exempt (WAC 197-11-305).

Section 9.1 City/County Thresholds. For minor new construction, the SEPA procedures of the city or 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 SEPA procedures should also be reviewed to determine if the proposal is located in an environmentally sensitive area under WAC 197-11-908.

Section 9.2 Proposals with Exempt and Nonexempt Parts. In determining whether a proposal is exempt, the Port shall make an effort to be certain the proposal is properly defined and the governmental licenses identified (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the proposal is not exempt and requires environmental review; however, the 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 (WAC 197-11-305(1)(b)). A common example would be the acquisition of a property right option or approval of bond financing, which would not have an adverse environmental impact or limit the choice of reasonable alternatives (it might even preserve or increase the availability of alternatives).

Section 10 Mitigated DNS. At the Commission or staff level, mitigation measures may be included in, or added to, a proposal so that environmental impacts are reduced or eliminated; mitigation measures may serve to reduce significant impacts or to mitigate nonsignificant impacts (WAC 197-11-350). Changes or clarifications do not require a new environmental checklist (WAC 197-11-350(4)). A DNS containing mitigation measures may simply be labeled a "DNS" (as in the form in WAC 197-11-970), and is not required to be formally titled or referred to as a "Mitigated DNS."

Mitigation measures for potentially 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 15-day waiting period are required for mitigated DNSs on proposals by applicants (WAC 197-11-340(2)(a)(iv) and Section 15 below). If the Commission changes the proposal or mitigation measures, the description of the proposal or mitigation measures stated in the decision document (Section 19) shall supersede those in the mitigated DNS.

PART FOUR

ENVIRONMENTAL IMPACT STATEMENT (EIS)

Section 11 Purpose/Adoption by Reference. 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. The 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 EISs (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 one to two 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 nonproject 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 nonproject 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 analyses, if used (WAC 197-11-450);
17. The procedures for issuing a draft EIS (WAC 197-11-455); and
18. The procedures for issuing a final EIS (WAC 197-11-460).

Section 11.1 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. Telephone commenting may be used. Any scoping beyond the minimum in WAC 197-11-408 (including formal or informal meetings and the use of forms, notices, or documents other than the form in WAC 197-11-980) shall be considered expanded scoping and is not required for adequate scoping under state law. If a consultant is preparing an EIS, the consultant's contract should make provision for possible change in the scope of the EIS based upon the scoping process.

Section 11.2 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 11.3 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. If an applicant's consultant is preparing the EIS, the applicant shall consult with the responsible official prior to final selection of consultants. The responsible official shall have the discretion to design the EIS process and carry out the responsibilities set forth in WAC 197-11-420.

Section 11.4 Non-Environmental Information. The responsible official may include in an EIS information whether or not environmental, on any subject relevant to a decision. The information may be in the EIS or in other documents and shall not be used to determine the adequacy of SEPA compliance (WAC 197-11-440(8)).

Section 11.5 Mitigation Commitments. The Port is not required to commit to mitigation measures in an EIS itself. Mitigation measures that are identified and expressly committed to by the final decision-maker at the Port shall be incorporated into design plans and, where applicable, construction contracts.

PART FIVE

COMMENTING

Section 12 Purpose/Adoption by Reference. This part explains how to comment and respond on all environmental documents under SEPA, including rules for public notice and hearings. The Port may receive comments on its own proposals and may comment on other agencies' proposals or environmental documents. The state rules in 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 the 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 in FEISs (WAC 197-11-560); and
9. Prohibiting consulted agencies from charging lead agencies for assistance under SEPA (WAC 197-11-570).

Section 13 Port SEPA Comments to Other Agencies. The Port's Environmental Planning Section shall be responsible for coordinating and preparing Port comments to other agencies on the environmental documents of other agencies. This office shall also be responsible for coordinating consultation requests under SEPA from other agencies to the Port. The responsible official or 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. Normally, after the initial printing, the Port will charge its actual cost of printing for its environmental documents (or its normal per page copying charge). 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 may, 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. In addition to the circulation requirements to other agencies and affected tribes, the Port will give public notice in the following manner:

Section 15.1 Required Notice. For threshold determinations that require notice under Chapter 197-11 WAC, scoping notices, EISs, and public hearings on a draft EIS, the Port shall:

1. Publish notice in a newspaper of general circulation in the county, city, general area where the proposal is located (if there is more than one newspaper, the responsible official may select one newspaper for publication);
2. Furnish notice to anyone who has specifically requested in writing to be notified about the particular proposal;
3. File the documents required by WAC 197-11-508 with the state Department of Ecology for publication of notice in the SEPA REGISTER;
4. (For EIS and Public Hearings on a DEIS only) issue a press release announcing the EIS or the Public Hearing; and
5. (For EISs and Public Hearings on a DEIS only) create or maintain a mailing list based on responses during the scoping process and send notice to those on the list. This list may be combined with any list in Section 15.1.2.

Section 15.2 Additional Optional Notice. For any environmental documents or public meetings, the Port may:

1. Publish notice in Port newsletters, if any;
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. Request that a notice be posted 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 15.3 Notices of adoption and addenda shall be circulated as required by WAC 197-11-625 and 630, respectively. The date of issue is the date the document has been made publicly available and sent to the required recipients. A decision document (Section 19) shall be provided to anyone requesting it.

Section 15.4 Notice for Appeals. If the Port wishes to set a time limit for challenging its SEPA compliance in court, 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 7 below.

PART SIX

USING EXISTING ENVIRONMENTAL DOCUMENTS

Section 16 Purpose/Adoption by Reference. 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 EISs -- SEISs (WAC 197-11-620);
4. Procedures for addenda (WAC 197-11-625);
5. Procedures for adoption (WAC 197-11-630);
6. Procedures for incorporation by reference (WAC 197-11-635); and
7. How to combine SEPA and other documents (WAC 197-11-640).

Section 17 Adoption Hearing and Addenda.

Section 17.1 Federal Adoption Hearing. If the Port has issued a notice to adopt a federal environmental document as a substitute for preparing a SEPA EIS, and a federal agency subsequently holds a hearing on the environmental document, the federal hearing may be combined with and, if so, shall suffice for any public hearing required under WAC 197-11-610(5).

Section 17.2 Addenda. If monitoring reports are part of mitigation commitments, the required monitoring report(s) may be labeled as an addendum to the original environmental document (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. 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 700 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); and
3. Appeals (WAC 197-11-680).

Section 19 Port Decision Document. After its decision on any proposal not exempt under 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. 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. (See WAC 197-11-660(1)(b)).

Section 19.1 Private Projects. To the extent the Port conditions or denies proposals of applicants under SEPA, the document required by the preceding section shall cite the agency 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. The Port adopts by reference the state environmental policy as set forth in SEPA, RCW 43.21C.020. Specifically, in order to carry out the policy set forth in 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 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 SEPA and the Port's other statutory responsibilities.

Section 21 Appeals. 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 21.1 Informal Reconsideration. Any person may informally request the responsible official to reconsider a SEPA determination orally or in writing. The official shall reconsider the determination and provide a response, but, as this is not to be considered a formal appeal within the meaning of RCW 43.21C.075 and WAC 197-11-680, the official is not required to make a record or furnish reasons for the decision.

Section 21.2 Executive Review. Any person who has received the informal reconsideration described in Section 21.1 but for whom an issue or dispute persists may request that the Port's Executive Director reconsider the determination and response of the responsible official. Any such request must be made either orally or in writing to the Executive Director. The Executive Director, or his/her designee, shall reconsider the determination and response of the responsible official and shall provide an additional response. Because this is not to be considered a formal appeal within the meaning of RCW 43.21C.075 and WAC 197-11-680, the Executive Director, or his/her designee, is not required to make a record or furnish reasons for the decision.

Section 21.3 Commission Review. Any person who has received the informal reconsideration described in Section 21.1 and the executive review described in Section 21.2 but for whom an issue or dispute persists may request that the Port Commission appoint an outside party to review the matter. Any such request must be made in writing to the President of the Port Commission. If the Port Commission accepts the request, the appointed outside party shall:

1. Review the actions taken and the findings, conclusions, and rationale of the Port staff and of the person disputing the staff's actions and/or decisions;
2. Attempt to resolve the issues through mediation and negotiation; and
3. Recommend action if appropriate to the Port Commission.

Section 21.4 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.

Section 21.5 Judicial Review. If the Port wishes to commence the SEPA statute of limitations for its proposals, it shall typically do so by filing of 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 This part contains uniform usage and definitions of terms under SEPA. The usage and definitions in WAC 197-11-700 to 800 are hereby adopted by reference. Additional definitions are below.

Section 22.1 Usage. The usage of the word "may" means "is authorized to" and is "optional and permissive and does not impose a requirement" (WAC 197-11-700(3)(b)). Days are in calendar days. If a final date falls on a weekend or a state or national holiday, the date shall be the next working day.

Section 22.2 Commission. "Commission" means the Port Commission of the Port of Seattle, King County, Washington. The Port Commission is responsible for final Port decision-making except to the extent that certain decisions or types of decisions are lawfully delegated to Port staff.

Section 22.3 Decision Document. "Decision Document" means the publicly available document stating the Port's decision (Section 19 and WAC 197-11-660(1)(b)).

Section 22.4 Port. "Port" means the Port of Seattle, King County, Washington. Unless specified, Port may refer to the Port Commission or staff.

Section 22.5 Port Offices. "Port offices" means administrative subdivisions of the Port.

Section 22.6 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.

Section 22.7 Responsible Official. The "responsible official" is the staff member responsible for SEPA procedural compliance by the Port. The Port's responsible official is identified in Section 5 of this resolution.

Section 22.8 Staff. "Staff", "staff member", or "Port staff" mean the employees of the Port and not the Port Commissioners.

PART NINE

CATEGORICAL EXEMPTIONS

Section 23 Adoption by Reference. 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); and
3. Petitions to the Department of Ecology (WAC 197-11-890).

PART TEN

AGENCY COMPLIANCE

Section 24 Adoption by Reference. The provisions in WAC 197-11-914 through 955 are hereby adopted by reference. They include:

1. The list of agencies with environmental expertise (WAC 197-11-920);
2. The rules for determining lead agency (WAC 197-11-922 through 943);
3. SEPA fees and costs that may be charged (WAC 197-11-914); and

4. The effective date and application of the statewide rules and this resolution to Port activities (WAC 197-11-916 and 955).

Section 25 Additional Agencies with Expertise. The following agencies, or their successors, in addition to those listed in WAC 197-11-920, shall be considered agencies with environmental expertise by the Port:

1. Air Quality: Puget Sound Air Pollution Control Agency (PSAPCA).
2. Water Resources and Water Quality: Puget Sound Water Quality Authority and Municipality of Metropolitan Seattle (METRO).
3. Hazardous and Toxic Substances and Solid and Hazardous Waste: Seattle-King County Department of Public Health.
4. Land Use and Management: Puget Sound Council of Governments (PSCOG).
5. Transportation: Municipality of Metropolitan Seattle (METRO).

Section 26 Transition to New Rules. EISs issued after Resolution 2938 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 reissuance to meet the requirements of said resolution.

Section 27 Revision of SEPA Policies or Procedures. 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 28 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.

PART ELEVEN

FORMS

Section 29 Adoption by Reference. The forms in WAC 197-11-960 through 990 are hereby adopted by reference, except that portions relating to administrative appeals may not be applicable. The Port may modify the forms to include additional wording and information to explain proposed actions or the Port's SEPA policies and procedures.

PART TWELVE

REPEALER

Section 30 Repealer. Resolutions Nos. 2402 (adopted December 14, 1971), 2514 (adopted February 26, 1974), 2621 (adopted February 10, 1976), 2643 (adopted June 22, 1976), 2743 (adopted June 11, 1978), 2840 (adopted January 26, 1982), 2938, as amended, (adopted September 25, 1984), and 2973 (adopted August 27, 1985) previously adopted by the Port Commission and dealing with the same subject are hereby repealed.

ADOPTED by the Port Commission of the Port of Seattle this 17th day of December 1987, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission duly affixed.

Henry M. Brown
Patricia Davis
Jack Black
Jim Wright
Paul Henderson
Port Commissioners