

RESOLUTION NO. 167

A RESOLUTION OF THE COMMISSIONERS OF WHATCOM
COUNTY WATER DISTRICT NO. 8, CONCERNING THE
ADOPTION OF GUIDELINES FOR IMPLEMENTATION OF
THE STATE ENVIRONMENTAL POLICY ACT (RCW 43.21C)

WHEREAS, the State Environmental Policy Act ("SEPA", RCW 43.21C) established the Council on Environmental Policy ("CEP") to establish and adopt guidelines for the implementation of SEPA, and

WHEREAS, CEP did adopt such guidelines effective January 16, 1976, which are codified as WAC 197-10, and

WHEREAS, SEPA and said guidelines require the District to establish its own implementing regulations consistent with WAC 197-10,

THEREFORE, BE IT RESOLVED:

Section 1: POLICIES. The District hereby adopts by reference the policies of SEPA as set forth in RCW 43.21C.010 and RCW 43.21C.020.

Section 2: ADOPTION BY REFERENCE. The District hereby adopts by reference the following sections of Chapter 197-10 of the Washington Administrative Code:

WAC 197-10-	Subject
(1) -040	Definitions
(2) -060	Scope of a Proposal and its Impacts for the Purposes of Lead Agency Determination, Threshold Determination, and EIS Preparation
(3) -100	Summary of Information Which May be Required of a Private Applicant
(4) -160	No Presumption of Significance for Non-Exempt Actions
(5) -170	Categorical Exemptions
(6) -200	Lead Agency -- Responsibilities
(7) -203	Determination of Lead Agency -- Procedures
(8) -205	Lead Agency Designation -- Governmental Proposals
(9) -210	Lead Agency Designation -- Proposals Involving Both Private and Public Construction Activity
(10) -215	Lead Agency Designation -- Private Projects for Which Thereis Only One Agency With Jurisdiction
(11) -220	Lead Agency Designation -- Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies is a County/City
(12) -230	Lead Agency Designation -- Specific Proposals

(13)	-240	Agreements as to Lead Agency Status
(14)	-245	Agreements Between Agencies As to Division of Lead Agency Duties
(15)	-300	Threshold Determination Requirements
(16)	-310	Threshold Determination Procedures -- Environmental Checklist
(17)	-320	Threshold Determination Procedures -- Initial Review of Environmental Checklist
(18)	-330	Threshold Determination Procedures -- Information in Addition to Checklist
(19)	-340	Threshold Determination Procedures -- Negative Declarations
(20)	-345	Assumption of Lead Agency Status by Another Agency With Jurisdiction -- Prerequisites, Effect and Form of Notice
(21)	-350	Affirmative Threshold Determinations
(22)	-355	Form of Declaration of Significance/Non-Significance
(23)	-360	Threshold Determination Criteria -- Application on Environmental Checklist
(24)	-365	Environmental Checklist
(25)	-370	Withdrawal of Affirmative Threshold Determination
(26)	-375	Withdrawal of Negative Threshold Determination
(27)	-390	Effect of Threshold Determination by Lead Agency
(28)	-400	Duty to Begin Preparation of a Draft EIS
(29)	-405	Purpose and Function of a Draft EIS
(30)	-410	Pre-Draft Consultation Procedures
(31)	-425	Organization and Style of a Draft EIS
(32)	-440	Contents of a Draft EIS
(33)	-442	Special Considerations Regarding Contents of an EIS on a Non-Project Action
(34)	-444	List of Elements of the Environment
(35)	-450	Public Awareness of Availability of Draft EIS
(36)	-455	Circulation of the Draft EIS -- Review Period
(37)	-460	Specific Agencies to Which Draft EIS Shall be Sent
(38)	-465	Agencies Possessing Environmental Expertise
(39)	-470	Costs to the Public for Reproduction of Environmental Documents
(40)	-480	Public Hearing on a Proposal -- When Required

(41)	-485	Notice of Public Hearing on Environmental Impact of the Proposal
(42)	-490	Notice of Public Hearing on Environmental Impact of the Proposal
(43)	-495	Preparation of Amended or New Draft EIS
(44)	-500	Responsibilities of Consulted Agencies -- Local Agencies
(45)	-530	Responsibilities of Consulted Agencies -- When Pre-draft Consultation Has Occurred
(46)	-535	Cost of Performance of Consulted Agency Responsibilities
(47)	-540	Limitations on Responses to Consultation
(48)	-545	Effect of No Written Comment
(49)	-550	Preparation of the Final EIS -- Time Period Allowed
(50)	-570	Preparation of the Final EIS -- Contents -- When No Critical Comments Received on the Draft EIS
(51)	-580	Preparation of the Final EIS -- Contracts -- When Critical Comments Received on the Draft EIS
(52)	-600	Circulation of the Final EIS
(53)	-650	Effect of an Adequate Final EIS Prepared Pursuant to NEPA
(54)	-652	Supplementation of a Lead Agency of an Inadequate Final NEPA EIS
(55)	-660	Use of Previously Prepared EIS for a Different Proposed Action
(56)	-690	Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal
(57)	-695	Draft and Final Supplements to Revised EIS
(58)	-700	No Action for Seven Days After Publication of the Final EIS.
(59)	-840	Application of Agency Guidelines to on-going Actions.

Section 3: TIMING. (1) The primary purpose of the EIS process is to provide environmental information to governmental decision-makers to be considered prior to making their decision. The process should thus be completed before the decisions of an agency commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis.

(2) As a lead agency the District should complete the threshold determination and any required EIS at the earliest point in the planning and decision-making process when the principal features of a proposal and its impacts upon the environment can be reliably identified. At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action or any decision which irreversibly commits the District to approving or adopting the proposal.

(3) For any proposed action the following determinations shall be made as part of the initial review of every proposal, subject to the specified time limits which time limits shall be only applicable to private projects:

(a) Preliminary determinations:

(i) A determination as to the scope of a total proposal.

(ii) A determination whether the particular project or proposal is an "action."

(iii) A determination whether the project or proposal is categorically exempt.

(iv) The determinations set forth in subsections (i), (ii) and (iii) hereof shall be made within seven (7) days following submission of a request for preliminary determination by a private applicant to the responsible official.

(b) Threshold determination:

(i) A threshold determination which can be made based upon review of the environmental checklist submitted by a private applicant should be completed within fifteen (15) days of submission of the completed checklist to the responsible official.

(ii) A threshold determination requiring further information from a private applicant or consultation with other agencies with jurisdiction should be completed within fifteen (15) days of receiving the information requested from the private applicant or the consulted agency; requests by the District for such further information should be made within fifteen (15) days of the submission of the completed checklist; when a request for further information is submitted to a consulted agency, the District shall wait a maximum of thirty (30) days for the consulted agency to respond.

(iii) A threshold determination which requires that further studies, including field investigations, be initiated by the District should be completed within thirty (30) days of submission of the completed checklist to the responsible official.

(iv) When a threshold determination is expected to require more than fifteen (15) days to complete and a private applicant requests notification of the date when the threshold determination will be made, the responsible official shall transmit to the private applicant a written statement as to the expected date of decision.

(v) If a private applicant recommends in writing accompanied by a completed environmental checklist that an EIS be prepared because of any significant environmental impact asserted and described, the responsible official shall determine within seven (7) days of receipt of such recommendation whether an EIS shall be required or not. If the responsible official determines that an EIS is not required, a threshold determination shall be completed within fifteen (15) days of the submission of such a recommendation.

(vi) When the District is both the proponent of an action and the lead agency, and the responsible official has determined that an EIS is to be done for the proposal, no environmental checklist is required.

Section 4: LEAD AGENCY DETERMINATION AND RESPONSIBILITIES. (1) For any proposal the District receives or initiates, any portion of which involves a major action, the lead agency for that proposal shall be determined pursuant to the criteria set forth in WAC 197-10-205 through -270, using the procedures of Section 2.(7) hereof. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined. A lead agency must be an agency with jurisdiction.

(2) When making a lead agency determination for a private project the responsible official shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal.

(3) In those instances in which the District is not the lead agency under the criteria set forth in WAC 197-10-205 through WAC 197-10-270, the District shall utilize and consider as appropriate a declaration of non-significance or final EIS of the lead agency or a final EIS prepared pursuant to the National Environmental Policy Act (in conjunction with the decisions of the District on the proposal, subject, however, to the requirements as appropriate of Sections 2(27), 2(53), 2(54), 2(55), and 2(56) hereof.

(4) In the event that the District or any department thereof receives a lead agency determination made by another agency which does not appear to be in accord with the criteria of WAC 1197-10-205 through -245 it may object thereto. Any such objection must be made and resolved within fifteen (15) days of receipt of the determination, or the District must petition CEP for a lead agency determination pursuant to WAC 197-10-260 within such fifteen (15) day time period. Any such petition on behalf of the District shall be initiated by the Manager or his designee.

Section 5: EMERGENCY ACTIONS. Any action which in the opinion of the District's responsible official must be undertaken immediately, or within a time too short to allow full compliance with the provisions of this Resolution, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this Resolution.

Section 6: USE AND EFFECT OF CATEGORICAL EXEMPTIONS. (1) Those activities excluded from the definition of "action" in Section 2(1) hereof, or categorically exempted by Section 2(7) and Section 5 hereof, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of this Resolution and RCW 43.21C.030(2) (c) and (2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

(3) If the proposal includes a series of categorically exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not categorically exempt.

(4) For a proposal covered by subsections (2) and (3) above, categorically exempt activities or actions may be undertaken prior to the threshold determination, subject to the timing considerations in Section 3 hereof.

(5) In performing its functions under this chapter, the District shall recognize and give effect to WAC 197-10-175 which established exemptions specific to other agencies.

(6) In its actions, the District shall respect "environmentally sensitive areas" and their modified exemption criteria which have been adopted and displayed by the appropriate county/city pursuant to WAC 197-10-177.

Section 7: PREPARATION OF AN EIS. (1) Preparation of an EIS is the responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or agent thereof, or by an outside consultant retained by either a private applicant or the lead agency. In any such case, the responsible official within the lead agency shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any pre-draft consultation procedures so that the person preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which are relevant to the subject matter of the EIS pursuant to RCW 42.17 (Public Disclosure and Public Records Law; Initiative 276, 1973), or are not otherwise privileged.

(4) A private applicant may be required or authorized to participate in the preparation of an EIS if the responsible official determines that this will aid in preparing a meaningful environmental analysis. In such a case:

(a) The EIS shall be prepared under the direction of the responsible official and as required by this Resolution.

(b) A private applicant may not be required to provide more information than allowed by this chapter, but the responsible official may authorize a lesser degree of participation by a private applicant than allowed herein: PROVIDED, That nothing herein shall be construed to prohibit an agency from charging any fee of an applicant which the agency is otherwise authorized to charge. The private applicant may, however, volunteer to provide any information or effort desired so long as the contents and organization of the resulting EIS are supervised and approved by the responsible official as required by this Resolution.

Section 8: RESPONSIBLE OFFICIAL. (1) The responsible official shall be PAT SIZEMORE (herein referred to as manager) or his designee. If the Manager designates an employee as responsible official for any proposed action or class of actions he shall be guided by the nature of the proposal and the administrative decision-making process normally employed by the District. Such designation may be made in procedures promulgated pursuant to Section 13 hereof.

(2) The responsible official shall carry out the duties and functions of this Resolution for the District when it is acting as lead agency. This includes but is not limited to duties involving the threshold determination and any required EIS.

Section 9: DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR DISTRICT. Any request for consultation with the District by another agency shall be directed to the Manager. Responses to such requests for consultation shall be set forth in procedures established pursuant to Section 13 hereof.

Section 10: INTEGRATION OF SEPA PROCEDURES WITH OTHER GOVERNMENTAL OPERATIONS. These SEPA procedures shall be integrated with existing planning, review, project approval and licensing procedures utilized by the District. When required to be prepared, any declaration of significance or non-significance, any EIS, or any previously circulated EIS being utilized pursuant to Section 2(55) hereof, shall accompany a proposal through the existing review processes.

Section 11: SEPA PUBLIC INFORMATION CENTER. (1) The following location constitutes the District's SEPA Public Information Center:

Address: WHATCOM COUNTY WATER DISTRICT #8
4895 Birch Bay Lynden Rd.
Blaine, Washington 98230
Telephone: (206) 332-5709

(2) The Manager shall use all reasonable means to make the existence and location of the District's SEPA Public Information Center known to both the public generally and the employees of the District.

(3) The SEPA Public Information Center shall contain the documents and provide the services required by WAC 197-10-830.

Section 12: STATUTE OF LIMITATIONS. (1) The Manager should examine the option of following the procedures of RCW 43.21C.080 and .085 to utilize the statute of limitations provision relating to SEPA compliance. This procedure is activated by the actual execution of the subject action (i.e., issuance of permit or approval).

(2) The District shall utilize for any action by it involving or related to a project for which any agency including the District has previously taken as action and for which a detailed statement (EIS) has been previously prepared, such previously prepared detailed statement, as long as there is no substantial change in the project between the time of any earlier action and the subsequent action of the District. The previous detailed statement shall be supplemented only if in the opinion of the appropriate responsible official the provisions of Section 2(53), 2(54), 2(55), or 2(56) hereof would so require.

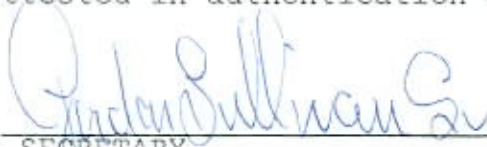
Section 13: SUPPLEMENTARY RULES AND PROCEDURES. The Manager subject to the provisions of this Resolution is hereby authorized and directed to develop and promulgate such procedures as he deems appropriate for implementing the provisions of this Resolution.

ADOPTED by the Board of Commissioners of Whatcom County Water District No. 8, Whatcom County, Washington, at a regular meeting of said board held on the _____ day of _____, 1976.



COMMISSIONERS

THIS IS TO CERTIFY THAT the foregoing resolution is a true and correct copy of Resolution No. _____ of said Board, duly adopted at the regular meeting thereof held on the _____ day of _____, 1976, signed by the members of such Board in attendance at such meeting and attested in authentication of such adoption.



SECRETARY