STATE ENVIRONMENTAL POLICY ACT COMPLIANCE

Section 1. Policies and Authority

The district adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020.

Section 2. Adoption by Reference

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

General Requirements

WAC 197-11 -040 Definitions
-050 Lead agency
-055 Timing of the SEPA process
-060 Content of environmental review
-070 Limitations on actions during SEPA process
-080 Incomplete or unavailable information
-090 Supporting documents
-100 Information required of applicants

Categorical Exemptions

-300 Purpose of this part
-305 Categorical exemptions
-310 Threshold determination required
-315 Environmental checklist
-330 Threshold determination process
-335 Additional information
-340 Determination of nonsignificance (DNS)
-350 Mitigated DNS
-360 Determination of significance (DS)/initiation of scoping
-390 Effect of threshold determination

Environmental Impact Statement

-400 Purpose of EIS
-402 General requirements
-405 EIS types
-406 EIS timing
Policy No. 6890
Management Support

-408 Scoping
-410 Expanded scoping (Optional)
-420 EIS preparation
-425 Style and size
-430 Format
-435 Cover letter or memo
-440 EIS contents
-442 Contents of EIS on nonproject proposals
-443 EIS contents when prior nonproject EIS
-444 Elements of the environment
-448 Relationship to EIS to other considerations
-450 Cost-benefit analysis
-455 Issuance of DEIS
-460 Issuance of FEIS

Commenting

-500 Purpose
-502 Inviting comment
-504 Availability and cost of environmental documents
-508 SEPA register
-535 Public hearings and meetings
-545 Effect of no comment
-550 Specificity of comments
-560 FEIS response to comments
-570 Consulted agency costs to assist lead agency

Using Existing Environmental Documents

-600 When to use existing environmental documents
-610 Use of NEPA documents
-620 Supplemental environmental impact statement-procedures
-625 Addenda - procedures
-630 Adoption - procedures
-635 Incorporation by reference - procedures
-640 Combining documents

SEPA and Agency Decisions

-650 Purpose of this part
-655 Implementation
-660 Substantive authority and mitigation
Definitions

-680 Appeals

-700 Definitions
-702 Act
-704 Actions
-706 Addendum
-708 Adoption
-710 Affected tribe
-712 Affecting
-714 Agency
-716 Applicant
-718 Built environment
-720 Categorical exemption
-722 Consolidated appeal
-724 Consulted agency
-726 Cost-benefit analysis
-728 County/city
-730 Decisionmaker
-732 Department
-734 Determination of nonsignificance (DNS)
-736 Determination of significance (DS)
-738 EIS
-740 Environment
-742 Environmental checklist
-744 Environmental document
-746 Environmental review
-748 Environmentally sensitive area
-750 Expanded scoping
-752 Impacts
-754 Incorporation by reference
-756 Lands covered by water
-758 Lead agency
-760 License
-762 Local agency
-764 Major action
-766 Mitigate DNS
-768 Mitigation
-770 Natural environment
-772 NEPA
-774 Nonproject
-776 Phased review
-778 Preparation
-780 Private project
-782 Probable
-784 Proposal
-786 Reasonable alternative
-788 Reasonable official
-790 SEPA
-792 Scope
-793 Scoping
-794 Significant
-796 State agency
-797 Threshold determination
-799 Underlying governmental action

Categorical Exemptions

-800 Categorical exemptions
-880 Emergencies
-890 Petitioning DOE to change exemptions

Agency Compliance

-900 Purpose of this part
-902 Agency SEPA policies
-904 Agency SEPA procedures
-906 Content and consistency of agency
-916 Application to ongoing actions
-918 Lack of agency procedures
-920 Agencies with environmental experience
-922 Lead agency rules
-924 Determining the lead agency
-926 Lead agency for governmental proposals
-928 Lead agency for public and private proposals
-930 Lead agency for private projects with one agency with jurisdiction
-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
-936 Lead agency for private projects requiring licenses from more than one state agency
-938 Lead agencies for specific proposals
-940 Transfer of lead agency status to a state agency
-942 Agreements on lead agency status
-944 Agreements on division of lead agency duties
-946 DOE resolution of lead agency status
-948 Assumption of lead agency status

Forms

-960 Environmental checklist
-965 Adoption notice
-970 Determination of nonsignificance (DNS)
-980 Determination of significance and scoping notice (DS)
-985 Notice of assumption of lead agency status
-990 Notice of action

Section 3. Additional Definitions

In addition to those definitions contained within WAC 197-11-700 to 197-11-799, the following terms shall have the following meanings, unless the context indicates otherwise.

1. District: District means the Tacoma School District No. 10, Pierce County, state of Washington.

Section 4. Substantive Authority

The policies and goals set forth herein are supplementary to those in the existing authorization of the district. Any district action on proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the limitations of WAC 197-11-660. The district establishes the following criteria as the basis for exercising authority relative to environmental issues. The district shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assure 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, or other undesirable and 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 wide sharing of life’s amenities; and
7. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
Section 5. Environmentally Sensitive Areas

In its actions, the district shall respect “environmentally sensitive areas” and their modified exemption criteria which have been adopted and displayed by local governments.

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

Section 6. Use of Exemptions

When the district receives an application for a license or when the district initiates a proposal, it shall determine whether the license and/or the proposal is exempt. The district’s determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements set forth herein shall apply to the proposal.

To determine whether or not a proposal is exempt, the district shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt and the district must complete a threshold determination. In determining whether a proposal is exempt from SEPA, the district shall comply with the square footage and parking space threshold levels adopted by the jurisdiction where the proposal is located.

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

1. No nonexempt action shall be authorized;
2. No action shall be authorized which shall irrevocably commit the district to approve or authorize a nonexempt action or that would limit the choice of alternatives;
3. The district may withhold approval of an exempt action which would lead to modification of the physical environment, when such modifications would serve no purpose if later approval of an action is not secured; and
4. The district may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of an action is not secured.
Section 7. Activities Excluded

Those activities excluded from the definition of “action” in WAC 197-11-704, or categorically exempted under WAC Ch. 197-11, are exempt from the threshold determination (including the completion of the environment checklist) and EIS requirements. The applicability of exemptions shall be determined by the district officer or employee initiating the proposal, subject to review by the responsible official. For proposals within the City of Tacoma, the district adopts the flexible thresholds for categorical exemptions which apply within the City of Tacoma as established by City of Tacoma Code § 13.12.801, including categorical exemptions of:

1. Construction of an office, school, recreational, service or storage building with 4,000 square feet or less of gross floor area, and with associated parking facilities designed for twenty (20) automobiles;
2. The demolition of an office, school, recreational, service or storage building with 12,000 square feet or less of gross floor area; and
3. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation.

Section 8. Lead Agency Determination and Responsibilities

When the district receives an application for or initiates a proposal that involves a nonexempt action, it shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the responsible official is aware that another agency is in the process of determining the lead agency.

When the district is not the lead agency for a proposal, it shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. It shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the district may conduct supplemental environmental review under WAC 197-11-600.

If the district receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fourteen (14) days of receipt of the determination, or the district must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fourteen day time period. Any such petition on behalf of the district may be initiated by the responsible official.

The responsible official is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.
Section 9. Environmental Checklist

Except as provided in accordance with laws and regulations of the state of Washington the district must complete an environmental checklist for any proposal that meets the definition of action and is not categorically exempted; checklist is not needed if the district and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. This checklist shall be the basis for the threshold determination.

For all proposals for which the district is lead agency, the responsible official of the district shall make the threshold determination pursuant to the criteria and procedures in accordance with the laws and regulations of the state of Washington.

Section 10. Preparation of EIS

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

In the event that an EIS is to be prepared by a consultant, the responsible official 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.

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

Section 11. Mitigated DNS

As provided in this section and in accordance with the laws and regulation of the state of Washington, the district may clarify or change features of its own proposals, and may specify mitigation measures in its own DNS, as a result of comments from other agencies or the public or as a result of additional district planning. The responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or based on changes to, or clarifications of, the proposal made by the applicant.

A mitigated DNS is issued in accordance with the laws and regulations of the state of Washington requiring a fourteen-day comment period and public notice.

Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically provided by the district.
Section 12. Public Notice

The district will establish a mailing list for those interested citizens who wish to be informed regarding documents the district issues that require public notice. If deemed appropriate by the responsible official, the school district will place appropriate notice in the paper of general circulation which serves the area.

Section 13. Designation of Official to Perform Consulted Agency Responsibilities for the District

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

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

Section 14. Designation of Responsible Official

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

Section 15. Fees

No fee shall be collected by district for performing its duties as a consulted agency.

The district may charge any person for copies of any document prepared pursuant to the requirements of this policy and for mailing thereof, in a manner provided by RCW Chapter 42.17.

Section 16. Notice/Statute of Limitations

The district may publish notice of action pursuant to RCW 43.21C.080 for any action.

The form of the notice shall be as prescribed by the department of ecology and/or substantially in the form and manner set forth in RCW 43.21C.080. The notice shall be published by the district secretary pursuant to RCW 43.21C.080.
Section 17. Administrative Appeal

Agency appeals are provided for SEPA procedural determinations, except that an agency appeal is not provided for a determination of significance. The following provisions shall govern administrative appeals:

1. **Appeal to superintendent.** SEPA determinations shall be appealed by mailing or delivering a letter to the superintendent. The letter must include the information in paragraph 3 below.

2. **Deadline for Appeal.** The letter of appeal shall be delivered or mailed to the superintendent within fourteen (14) days of the date the challenged environmental document or determination is issued.

3. **Form of Appeal.** For an appeal to be accepted, the letter must specify: (a) the determination being appealed; (b) the errors complained of; (c) the corrective action being sought; (d) the reasons why the determination should be changed; and (e) whether further oral or written comment or a hearing is requested. Supporting documents may be submitted with the letter of appeal.

4. **Hearing Examiner.** The superintendent may serve as the presiding officer and may review the appeal directly, or the superintendent may appoint a hearing examiner or appointee to serve as the presiding officer.

5. **Time to Decision.** The presiding officer shall have thirty (30) days after securing sufficient information to make a decision in writing. The presiding officer for an appeal may set deadlines for the submission of any additional information or comments.

6. **Hearing.** A hearing shall be provided if requested by the appellant. The hearing shall provide reasonable opportunity for the parties to present oral or written testimony and argument, consistent with these rules. The presiding officer may establish procedures for the hearing, and may set the time period allowed for each party to the appeal, including the staff, to present its case. A hearing may not be scheduled for at least five (5) days from the district’s receipt of an appeal unless the parties agree otherwise.

7. **Final Action.** The district shall not take final action on a proposal while a proper appeal to the superintendent on a procedural determination is pending.
Section 18. Judicial Review

Parties must exhaust administrative appeals before seeking judicial review of SEPA compliance.

Section 19. Notice of Appeals

The notice requirements for environmental documents shall serve as adequate notice for agency appeals.

Section 20. Severability

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

Legal References:    RCW 43.21C  State Environmental Policy
                     WAC 197-11  State Environmental Policy Act Rules

Adoption Date: 7/27/00