

RESOLUTION NO. 1046

A RESOLUTION of the Port Commission of the Port of Everett, Snohomish County, Washington, revising and 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 (SEPA Rules) for determining and considering the environmental impact of actions taken by the Port, and repealing Resolution 614 along with all prior resolutions pertaining to the same subject matter

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

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

WHEREAS, SEPA has been amended to require the state Department of Ecology to issue new uniform standard statewide rules for carrying out SEPA, said rules were adopted in two rounds, the first of which became effective on January 28, 2013 and the second of which became effective on May 10, 2014; and

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

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

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

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

NOW, THEREFORE BE IT RESOLVED by the Port Commission of the Port of Everett, Washington that the following SEPA policies and procedures replace and restate in their entirety Port Resolution 614 as follows:

PART ONE

PURPOSE AND AUTHORITY

Section 1. Purpose and authority

Section 1.1 In broad terms, the State Environmental Policy Act (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 Commission 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 state SEPA rules issued by the 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 office named in section 5.4 below. Each provision adopted by

reference in this resolution is found in the state rules. Chapter 197-11 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 before the Port takes an "action" (as defined in WAC 197-11).

Section 2.2. Because SEPA applies only when some governmental action is involved, SEPA supplements or "overlays", the Port's regularly 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 and denying proposals.

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 government action.

Section 3. Policy for implementing 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 words used in the 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).
8. What information applicants can be required to provide (information required of applicants, WAC 197-11-100).
9. How SEPA and the Model Toxics Control Act (MTCA) provisions are to be integrated, how the lead agency for MTCA actions is determined and other provisions related to MTCA (WAC 197-11-250 through 197-11-268).

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.

Section 5.2. Responsible official. The person or office at the lead agency in charge of carrying out SEPA compliance is the responsible official. The Port's responsible official is the Chief, Legal Affairs or other position designated by the Executive Director.

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:

Port of Everett, Administrative Office, P.O. Box 538, Everett, WA 98206.

The office will provide information about environmental documents, who the responsible official is for a specific proposal, the status of SEPA review for a proposal, or other questions about SEPA compliance. If they do not know the answer, they can 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 actions to take on a proposal are agencies with jurisdiction. Other agencies that know about certain environmental impacts are called agencies with environmental expertise. If the Port, as lead agency, ask 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 office named in section 5.4 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 encourage 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. The SEPA process shall be integrated with Port activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays in the process, and to seek to resolve potential environmental issues. 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 6.1. Typical port actions. A final threshold determination or final environmental impact statement shall be completed, within the time periods required by these procedures, prior to Commission approval by resolution of any action triggering SEPA review that is not categorically exempt or exempt under any provision of SEPA.

Section 6.2. Applicant early review. If the Port's only action on a proposal is a decision on a written approval to an applicant based upon the 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 6.3. 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 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 7. 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 if the supporting documents are publicly available substantially within any time periods allowed for review or comments. If available, 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 by SEPA.

PART THREE

CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

Section 8. Purpose and 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) be prepared. RCW 43.21C.031. This part also contains rules for evaluating the impacts of proposals not requiring an EIS and for administering categorical exemptions from SEPA review. The state rules in WAC 197-11-300 to 400 are hereby incorporated by reference. They include:

1. Not requiring review for proposals that are categorically exempt (WAC 197-11-305, WAC 197-11-800 and all of 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).
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 be reviewed to determine if the proposal is located in a critical area under WAC 197-11-908 and whether this affects the categorical exemption. The Port of Everett adopts the respective exempt levels for minor new construction as established under 197-11-800(1)(c) by the City of Everett and any other jurisdiction wherein the Port action is located, as they now exist and/or as amended thereafter.

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 nevertheless 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)). An 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 9.3. Documentation optional. A decision that a proposed action is categorically exempt need not be documented. A memorandum or notation may be placed in the file. No public notice is required for this determination and it is not appealable.

Section 10. Mitigated DNS.

Section 10.1. 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 nonsignificant impacts (WAC 197-11-350). Changes or clarifications do not require a new environmental checklist (WAC 197-11-350 (4)). An addendum may also be used.

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 15-day waiting period are required for mitigated DNSs on proposals by applicants (WAC 197-11-340(2)(a)(iv) and Section 15 below.

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. Purpose of an EIS (WAC 197-11-400).
2. 10 requirements that apply to the preparation of EISs (WAC 197-11-402).
3. 3 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 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 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).
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, and may use commenting by telephone. If a consultant is preparing an EIS, the consultant's contract should make provision for possible changes 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 scoping methods. A scoping notice 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. Preparation of EIS. 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 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.

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 state rules in WAC 197-11-500 to 570 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 of agencies and the public on 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).
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 office named in Section 5.4 above 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 for responses from offices with the Port in order to meet commenting deadlines established by law or other agencies in their requests.

Section 14. Costs for Port environmental documents. Normally, 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 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. 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 hearing(s), if any, the Port shall:

1. Provide notice in the same manner as required for the announcement of regular Port commission meetings;
2. Furnish notice to anyone who specifically requested to be notified about the particular proposal or about the type of proposal being considered;
3. File the documents required by WAC 197-11-508 with the state Department of Ecology for publication in the SEPA REGISTER; and
4. (for EISs only) notify the local news media where the proposal is located that an EIS is available.

Section 15.2. Additional optional public notice. For any environmental documents or public hearings, the Port may:

1. Publish notice in agency 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 on the Port's web page;
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 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/Adopting 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.

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).
7. How to combine SEPA and other documents (WAC 197-11-640).

Section 17. 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).
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 be combined with other Port documents, and/or 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. The decision may also cite other policies, plans, rules, or resolutions formally adopted by the Port as the basis for conditioning or denying a proposal.

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 trustees 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 an 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 probably adverse environmental impacts resulting from proposals, particularly significant impacts resulting from proposals, particularly significant impacts, to the extent of the Port's authority and guided by the policies stated above and in SEPA and the Port's other statutory responsibilities.

The Port also adopts by reference its Comprehensive Scheme of Harbor Improvements and amendments thereto under chapter 53.20 RCW as basis for the exercise of substantive authority under SEPA.

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

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. No exhaustion of remedies. Because there are not administrative appeals, a person is not required to request informal reconsideration prior to filing a lawsuit under SEPA.

Section 21.2. Judicial review. If the Port wishes to commence the SEPA statute of limitations for its proposals, it shall typically do so by filing a Notice of Action under RCW 43.21C.080. The Port may decide to use any other procedure allowed by RCW.43.21C.075, WAC 197-11-680, or any other applicable law.

Section 21.3. The Port's final SEPA decision shall be appealable to the Superior Court of the State of Washington. Any court action to set aside, enjoin, review, or otherwise challenge the SEPA decision shall be filed in Superior Court and served on the Port within 21 days of the date of the Port's written final decision issued.

PART EIGHT

DEFINITIONS

Section 22. This part contains uniform usage and definitions of terms under SEPA. WAC 197-11-700 to 800 are hereby adopted by reference. Additional definitions are below.

Section 22.1. Commission. "Commission" means the Port Commission of the Port of Everett, Snohomish 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 22.2. Port. "Port" means the Port of Everett, Snohomish County, Washington. Unless specified, Port may refer to the Port commission or staff.

Section 22.3. Port offices. "Port offices" means administrative subdivisions of the Port.

Section 22.4. 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 22.5. 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 22.6. 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:

Categorical exemptions for all agencies (WAC 197-11-800).

Emergencies (WAC 197-11-880).

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:

The list of agencies with environmental expertise (WAC 197-11-920).

The rules for determining lead agency (WAC 197-11-922 through 943).

SEPA fees and costs that may be charged (WAC 197-11-914).

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. EISs 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, and supplemental EIS, do not require revision or reissuance to meet the requirements of this resolution or the new state rules (WAC 197-11-916).

Section 26. Revision of SEPA policies or procedures. The Port may amend its SEPA policies from time to time as may be necessary. The responsible official may provide guidance and procedures to carry out this resolution.

Section 27. 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.

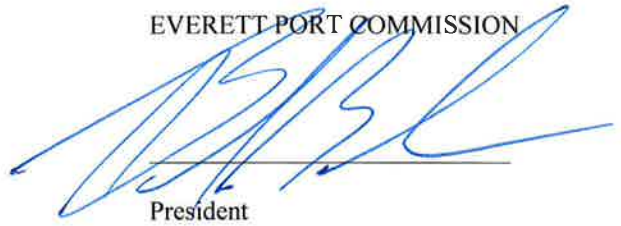
PART ELEVEN

FORMS

Section 28. The forms in WAC 197-11-960 through 990 are hereby adopted by reference, except that the portions relating to administrative appeals may not be applicable.

ADOPTED by the Everett Port Commission this 12th day of January, 2016.

EVERETT PORT COMMISSION



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President



A handwritten signature in blue ink, written over a horizontal line.

Vice President



A handwritten signature in blue ink, written over a horizontal line.

Secretary