

**PORT OF TACOMA COMMISSION**  
**ACTION ITEM MEMO**



Item No: 6C  
Meeting Date: 7/18/2023

**DATE:** 7/10/2023  
**TO:** Port of Tacoma Commission  
**FROM:** Eric Johnson, Executive Director  
Sponsor: Jason Jordan, Director, Environmental and Planning Programs  
**SUBJECT:** Resolution 2023-01-PT SEPA Policy Update Adoption

**A. ACTION REQUESTED**

Request adoption of the new SEPA (State Environmental Policy Act) Resolution 2023-01-PT establishing the Port of Tacoma's SEPA policies and procedures.

**B. BACKGROUND**

The SEPA requires the Port, along with every other public agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public agency. The State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW (Revised Code of Washington), sets forth an environmental policy for Washington State and requires that the environmental impacts of proposals or actions be analyzed and, where appropriate, mitigated. SEPA applies to state agencies, counties, and municipal corporations, including port districts. The Port is required to adopt the SEPA policies and procedures that are consistent with the rules adopted by the Department of Ecology (WAC (Washington Administrative Code) 197-11) and may adopt by reference any or all the rules contained in Chapter 197-11 WAC.

The Port of Tacoma SEPA Resolution serves as the governing document for how the Port will conduct and manage the environmental review of projects on Port owned land. The SEPA Resolution was last updated in October 2016. Upon approval the prior Resolution will be repealed and replaced with this new resolution.

The agency in charge of carrying out the SEPA's procedural requirements for a proposal is the lead agency. A lead agency is selected for each proposal. The Port will typically be the lead agency for its proposals. However, another government may be the lead agency for a Port project.

The person or office at the lead agency in charge of the SEPA compliance is the responsible official (the "Responsible Official"). The new resolution designates the Port's Responsible Official as the Port's Director of Environmental Programs; currently that authority is delegated from the Executive Director. The Responsible Official may consult with the proposal's proponents concerning the SEPA process. Subject to budgetary authorization, the Responsible Official may retain and consult with such other experts as may be necessary to perform the duties described herein.

### C. SCOPE OF WORK

The SEPA requires the Port, along with every other public agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public agency. The SEPA itself does not have any substantive permit requirements. Rather, the SEPA review occurs when the Port takes some action on a proposal. This action is called the “underlying governmental action.” Because the SEPA applies only when some underlying governmental action is involved, the SEPA supplements or “overlays” the Port’s regular planning and decision making. The SEPA provides a basic process for studying and responding to a proposal’s environmental impacts, especially at the planning stages. The exact nature and timing of the SEPA process can vary for each type of underlying governmental action and for each individual proposal.

This Resolution contains the Port’s SEPA procedures, which detail the environmental review process under the SEPA. Key provisions of the new resolution include:

- Public Notification Process (notification distances are unchanged from current resolution):
  - Send the notice via electronic mail to the Port of Tacoma’s Agency and Interested Persons SEPA Mailing List, which shall include all required agencies, interested Tribes, and parties who have requested to be added to the list, either for all Port SEPA determinations or for a specific project or proposal. Send the notice via electronic mail or regular mail to all parties who provided comments on the project or proposal.
  - Threshold Determinations Send the notice via regular mail to taxpayers as indicated by the records of the Pierce County Assessor for properties within 2,000 feet of the proposed action.
  - EIS (ENVIRONMENTAL IMPACT STATEMENT) Scoping, and Availability of Draft and Final EIS Send the notice via regular mail to taxpayers as indicated by the records of the Pierce County Assessor for properties within 4,000 feet of the proposed action.
  - Post notice on the Port’s website and file the documents required by WAC 197-11-508 with the State Department of Ecology for publication of notice in the SEPA Register.
- Appeal Process
  - No Administrative 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).
  - No Exhaustion of Remedies. Because there are no administrative appeals, a person is not required to request informal reconsideration prior to filing suit to challenge the Port’s SEPA determinations.
  - Judicial Review. When the Land Use Petition Act, Chapter 36.70C RCW, (“LUPA”) applies to a Port proposal, all judicial appeals must be brought under the applicable LUPA statute of limitations.

- If LUPA does not apply, the Port may, but is not required to, commence the SEPA statute of limitations for its proposals by filing a Notice of Action under RCW 43.21C.080. The Port may decide in a particular situation to use any other procedure allowed by RCW 43.21C.075 and WAC 197-11-680.
- Tenant SEPA Service Option
  - The current SEPA resolution authorized Port staff to complete SEPA review for tenant projects on Port properties for a \$500 fee. This provision was removed from the updated resolution as there was limited use by Port tenants. The Port at the direction of the ED could still perform this type of SEPA review if requested.

#### **D. ENVIRONMENTAL IMPACTS / REVIEW**

The SEPA also contains the rules for preparing environmental impact statements. Under the new resolution, the Port adopts the State rules in WAC 197-11-400 to -460 by reference. The Responsible Official shall decide the scoping method and deadline for a given proposal, consistent with WAC 197-11-408. Scoping techniques can vary by proposal. If a consultant is preparing an EIS, the consultant's contract should make provisions for possible changes in the scope of the EIS based upon the scoping process.

#### **E. NEXT STEPS**

Commission adoption of Resolution 2023-01-PT.