

State Environmental Protection Act

Time Limits Applicable to the State Environmental Protection Act Process

The following time limits (expressed in calendar days) shall apply to the processing of all private projects and to those governmental proposals submitted to this district by other agencies:

1. Threshold Determinations
 - A. For proposals for which the district is the lead agency, threshold determinations should normally be completed within fifteen (15) days.
 - B. Threshold determinations requiring further consultation with other agencies with jurisdiction should be completed within fifteen (15) days of receiving the requested information from the consulted agency; requests by the district for such further information should be made within fifteen (15) days of the sub- mission of an adequate application and 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.
 - C. Threshold determinations which require that further studies, including field investigations, be initiated by the district should be completed within thirty (30) days of submission of an adequate application and the completed checklist.
 - D. The time limits set forth in this subsection shall not apply to withdrawals of affirmative and negative threshold determinations where such withdrawals are made in accordance with section 370 and 375.

Threshold Determination Appeal Procedures

1. In the event that the threshold determination results in an appeal within 15 calendar days from listing in the appropriate register, the responsible official will review his decision with particular emphasis on the areas of appeal. He may request further information of the applicant. The decision of the responsible official shall be in writing with copies to the project file, the applicant, and each protestant.
2. The responsible official should attempt to act upon the appeal within one week of receipt. If more time is required, the applicant should be advised in writing of the anticipated schedule.

Environmentally Sensitive Areas

1. In its actions, the district shall respect "environmentally sensitive areas" and their modified exemption criteria which have been adopted and displayed by local governments pursuant to WAC 197-10-177.
2. Major actions which will be located wholly or partially within an environmentally sensitive area are to be treated no differently than other major 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.

Use of Exemptions

1. 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.
2. If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.
3. If it is determined that a proposal is exempt, none of the procedural requirements of these guidelines apply to the proposal. No environmental checklist shall be required for an exempt proposal.
4. 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 which are not, the proposal is not exempt. For any such proposal, the lead agency shall be determined, even if the license application which triggers the district's consideration is otherwise exempt. If the lead agency is the district, then the responsible official shall be designated.
5. 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:
 - A. No major action (nonexempt action) shall be authorized;
 - B. No action shall be authorized which will irrevocably commit the district to approve or authorize a major action;
 - C. 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 a major action is not secured; and
 - D. 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 a major action is not secured.

Lead Agency Determination and Responsibilities

1. The district, upon receiving or initiating a proposal any portion of which involves a major action, shall determine the lead agency for that proposal pursuant to the criteria set forth in section WAC 197-10-205 through 270, using the procedures of WAC 197-10-203. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined, or the District is aware that another agency is in the process of determining the lead agency. NOTE: A lead agency must be an agency with jurisdiction.
2. In those instances in which the district is the lead agency, the responsible official of the district shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

3. In those instances in which the district is not the lead agency under the criteria of WAC 197-10-205 through 270, all departments of the district, subject to the limitations of WAC 197-10-390, 660, and 690 shall utilize and consider as appropriate either the declaration of non-significance or the final EIS of the lead agency in conjunction with the decisions of the district on the proposal. In such instances, the district shall not prepare or require preparation of a declaration of non-significance or EIS in addition to that prepared by the lead agency.
4. In the event that the district receives a lead agency determination made by another agency which does not appear to be in accord with the criteria of WAC 197-10-205 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 the Department of Ecology for a lead agency determination pursuant to WAC 197-10-260 within the fifteen (15) day time period. Any such petition on behalf of the district shall be initiated by the responsible official of his designee.

Environmental Checklist

1. Except as provided in WAC 197-10-300(2), a completed environmental checklist, or a copy thereof, substantially in the form provided in WAC 197-10-365 shall be filed at the same time as an application for a permit, license, certificate, or other entitlement for use not specifically exempted herein. This checklist shall be the basis for a determination by the district as to lead agency status and if the district is determined to be the lead agency, then for the threshold determination.
2. For all proposals for which the district is the lead agency, the responsible official of the district shall make the threshold determination pursuant to the criteria and procedures of WAC 197-10-300 through 365.

Preparation of Environmental Impact Statement

1. The draft and final EIS shall be prepared either by the responsible official or his designee, or by a private applicant or a consultant retained by the private applicant. 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.
2. In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, 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.
3. In the event that the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information which is not in the possession of the district relevant to any or all areas to be covered by the EIS.
4. No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution.

Additional elements to be covered in an Environmental Impact Statement

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under these rules:

1. Employment
2. Economy
3. Tax base
4. Cultural factors
5. Quality of life
6. Neighborhood cohesion
7. Sociological factors

Designation of Official to Perform Consulted Agency Responsibilities for the District

1. The superintendent or 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 pre-draft consultation, or reviewing a draft EIS.
2. The official designated in paragraph (1) hereof shall be responsible for compliance by the district with WAC 197-10-500 through 540 wherever the district is a consulted agency, and is hereby authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the district.

Designation of Responsible Official

1. For those proposals for which the district is the lead agency, the responsible official shall be the Superintendent or designee.
2. The responsible official shall make the threshold determination supervise preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA guidelines which were adopted by reference in WAC 173-805-020 hereof, for all proposals for which the district is the lead agency.

SEPA Public Information

All documents required by the SEPA guidelines (chapter 197-10-WAC) shall be retained by the district and made available in accordance with chapter 42.17 RCW.

Fees

1. No fee shall be collected by the district of performing its duties as a consulted agency.

2. The district may charge periodic fees for the service of mailing. Such fees shall be reasonably related to the costs of reproduction and mailing.
3. The district may charge any person for copies of any document prepared pursuant to the requirements of this ordinance, and for mailing thereof, in a manner provided in chapter 42.17 RCW.

Notice/Statute of Limitations

1. The district may publish notice of action pursuant to RCW 43.21C.080 for any action.
2. 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 Business Manager, applicant or proponent pursuant to RCW 42.21C.080.

Legal References:	Chapter 42.17 RCW	Disclosure—Campaign Finances—Lobbying-- Records
	RCW 43.21C.080	Notice of action by governmental agency -- How publicized -- Time limitation for commencing challenge to action.
	RCW 43.21C.120	Rules, ordinances, resolutions and regulations -- Adoption -- Effective dates.
	Title 197 WAC	Ecology, Department of (Environmental Policy, Council on)

Former Procedure: 7801-P1

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