

RESOLUTION NO. 2012-10

A Resolution of the Pierce County Flood Control Zone District Adopting Agency SEPA Procedures.

Whereas, the Washington State Department of Ecology has adopted rules for implementation of the State Environmental Policy Act ("SEPA"); and

Whereas, pursuant to RCW 43.21C.120 and WAC 197-11-020, the District shall adopt SEPA rules consistent with Chapter 197-11 WAC; and

Whereas, pursuant to WAC 197-11-904 the District gave notice of adoption of its SEPA procedures on November 5, 2012 in the News Tribune, a newspaper of general circulation in the District, and held a public hearing on the proposed SEPA procedures on November 7, 2012; **Now, therefore**

BE IT RESOLVED by the Board of Supervisors of the Pierce County Flood Control Zone District as follows:

Section 1. Authority.

The District adopts this resolution under the State Environmental Policy Act ("SEPA"), RCW 43.21C.120 and WAC 197-11-904. This resolution contains the District's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this resolution.

Section 2. General Requirements -

Adoption by Reference. Sections 2 through 7 contain the basic requirements that apply to the SEPA process. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations of actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.

- 1 197-11-100 Information required of applicants.
2 197-11-158 GMA project review – Reliance on existing plans, laws, and
3 regulations
4 197-11-210 SEPA/GMA integration
5 192-11-220 SEPA/GMA definitions.
6 197-11-228 Overall SEPA/GMA integration procedures.
7 197-11-230 Timing of an integrated GMA/SEPA process.
8 197-11-232 SEPA/GMA integration procedures for preliminary planning,
9 environmental analysis, and expanded scoping.
10 197-11-235 Documents.
11 197-11-238 Monitoring.
12 197-11-250 SEPA/Model Toxic Control Act integration.
13 197-11-253 SEPA lead agency for MTCA action.
14 197-11-256 Preliminary evaluation.
15 197-11-259 Determination of nonsignificance for MTCA remedial actions.
16 197-11-262 Determination of significance and EIS for MTCA remedial actions.
17 197-11-265 Early scoping for MTCA remedial actions.
18 197-11-268 MTCA interim actions.
19
20

21 Section 3. Additional Definitions.

22
23 In addition to those definitions contained in WAC 197-11-700 through WAC 197-
24 11-799, when used in this resolution, the following terms shall have the following
25 meanings, unless the context indicates otherwise:
26

27 A. "SEPA rules" means chapter 197-11 WAC adopted by the department of
28 ecology.
29

30 B. "Early notice" means the District's response to an applicant stating whether it
31 considers issuance of a determination of significance likely for the applicant's proposal
32 (mitigated determination of nonsignificance procedures).
33

34 Section 4. Responsible Official.

35
36 A. For all proposals for which the District is the lead agency, the responsible official
37 shall be the Pierce County Public Works Director or designee. When the Public Works
38 Director designates another person as responsible official, the Public Works Director
39 shall be guided in making such designation by the nature of the proposal and the
40 administrative decision making process normally used by the District.
41

42 B. For all proposals for which the District is the lead agency, the responsible official
43 shall make the threshold determination, supervise scoping and preparation of any
44 required environmental impact statement and perform any other functions assigned to
45 the "lead agency" or "responsible official" by section 1.
46

1 C. The District shall retain all documents required by the SEPA rules and shall make
2 them available in accordance with Chapter 42.56 RCW.

3
4 D. All decisions of the responsible official and the District relating to interpretation
5 and application of this resolution shall be accorded substantial deference.

6
7 Section 5. Lead Agency Determination and Responsibilities.
8

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

14
15 B. When the District is the lead agency for a proposal, the responsible official shall
16 supervise compliance with the threshold determination requirements, and if an EIS is
17 necessary, shall supervise preparation of the EIS.

18
19 C. When the District is not the lead agency for a proposal, it shall use and consider,
20 as appropriate, either the DNS or the final EIS of the lead agency in making decisions
21 on the proposal. The District shall not prepare or require preparation of a DNS or EIS in
22 addition to that prepared by the lead agency, unless required under WAC 197-11-600.
23 In some cases, the District may conduct supplemental environmental review under
24 WAC 197-11-600.

25
26 D. If the District receives a lead agency determination made by another agency that
27 appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-
28 11-940, it may object to the determination. Any objection must be made to the agency
29 originally making the determination and resolved within 15 days of receipt of the
30 determination, or the District shall petition the department of ecology for a lead agency
31 determination under WAC 197-11-946 within the 15-day time period. The petition shall
32 be initiated by the responsible official.

33
34 E. The responsible official is authorized to make agreements as to the lead agency
35 status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-
36 944.

37
38 F. When the District is lead agency for Model Toxic Control Act ("MTCA") remedial
39 action, the department of ecology shall be provided an opportunity under WAC 197-11-
40 253(5) to review the environmental documents prior to public notice being provided. If
41 SEPA and MTCA documents are issued together with one public comment period under
42 WAC 197-11-253(6), the District shall jointly with the department of ecology decide
43 which entity receives the comment letters and how copies of the comment letters will be
44 distributed to the other agency.

1 Section 6. Timing Considerations.

2
3 A. The responsible official shall begin any required environmental review for
4 proposals initiated by the District at the earliest point in the planning and decision
5 making process when the principal features of the proposal and its probable
6 environmental impacts are reasonably identified.

7
8 B. The responsible official shall begin any required environmental review for
9 proposals not initiated by the District no later than upon receipt of a complete
10 application. The application shall not be complete without the required environmental
11 documents and fees. However, the responsible official may initiate the final detailed
12 design stage and have informal conferences with the applicant prior to the submittal of a
13 complete application. When conducting such early environmental review, the application
14 shall provide the responsible official with sufficient information (consistent with WAC
15 197-11-100 and 197-11-335) as to permit the responsible official to conduct adequate
16 review consistent with this resolution.

17
18 C. To the extent that the District establishes any advisory body for purposes of
19 making a recommendation on a proposal to the board of supervisors, the responsible
20 official shall provide such bodies with any relevant environmental documents before any
21 final recommendation is transmitted to the board of supervisors.

22
23 D. Any environmental review may be organized in phases as specified in WAC 197-
24 11-060(5).

25
26 E. In all cases not otherwise covered, the timing of the District's environmental
27 review for proposals shall be as specified on an individual, case by case basis by the
28 responsible official consistent with this resolution.

29
30 Section 7. Emergency Actions.

31
32 Any action which in the opinion of the responsible official must be undertaken
33 immediately, or within a time too short to allow full compliance with the provisions of this
34 resolution, to avoid an imminent danger to property (public or private), or to prevent an
35 imminent threat of serious environmental degradation, shall be exempt from the
36 procedural requirements of SEPA, the SEPA rules and this resolution.

37
38 Section 8. Categorical Exemptions and Threshold Determinations – Adoption by
39 Reference.

40
41 A. Sections 8 through 10 contain rules for deciding whether a proposal has a
42 "probable significant, adverse environmental impact" requiring preparation of an
43 environmental impact statement. This section also contains rules for evaluating the
44 impacts of proposals not requiring an EIS. The District adopts the following sections by
45 reference:
46

1 WAC

2		
3	197-11-300	Purpose of this part.
4	197-11-305	Categorical exemptions.
5	197-11-310	Threshold determination required.
6	197-11-315	Environmental checklist.
7	197-11-330	Threshold determination process.
8	197-11-335	Additional information.
9	197-11-340	Determination of nonsignificance (DNS).
10	197-11-350	Mitigated DNS.
11	197-11-355	Optional DNS process.
12	197-11-360	Determination of significance (DS) / initiation of scoping.
13	197-11-390	Effect of threshold determination.

14
15 B. Use of exemptions.

16
17 1. The responsible official shall determine whether the proposal is exempt. The
18 official's determination that a proposal is exempt shall be final and not subject to
19 administrative review. If a proposal is exempt, none of the procedural requirements of
20 this chapter apply to the proposal. The responsible official shall not require completion
21 of an environmental checklist for an exempt proposal.

22
23 2. In determining whether or not a proposal is exempt, the responsible official
24 shall make certain the proposal is properly defined and shall identify the governmental
25 licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt
26 actions, the responsible official shall determine the lead agency, even if the application
27 that triggers the responsible official consideration is exempt.

28
29 3. If a proposal includes both exempt and nonexempt actions, the responsible
30 official may authorize exempt actions prior to compliance with the procedural
31 requirements of this resolution except that:

32
33 a. The responsible official shall not give authorization for:

- 34
35 i. Any nonexempt action;
36
37 ii. Any action that would have an adverse environmental
38 impact; or
39
40 iii. Any action that would limit the choice of alternatives.

41
42 b. The responsible official may withhold approval of exempt actions
43 that would lead to modification of the physical environment, when such modification
44 would serve no purpose if nonexempt actions were not approved; and
45

1 c. The responsible official may withhold approval of exempt actions
2 that would lead to substantial financial expenditures by a private applicant when the
3 expenditures would serve no purpose if nonexempt actions were not approved.
4

5 Section 9. Environmental Checklist.
6

7 A. A completed environmental checklist in the form provided by WAC 197-11-960
8 shall be filed at the same time as an application for a permit, license or other approval
9 not specifically exempted in this resolution; provided, that a checklist is not needed if the
10 responsible official and the applicant agree an EIS is required, SEPA compliance has
11 been completed or SEPA compliance has been initiated by another agency. The
12 responsible official shall use the environmental checklist to determine the lead agency
13 and, if the District is the lead agency, for determining the responsible official for the
14 making of a threshold determination.
15

16 B. For private proposals, the responsible official shall require the applicant to
17 complete the environmental checklist, providing assistance as necessary. For District
18 proposals, the District or responsible official shall complete the environmental checklist
19 for that proposal.
20

21 Section 10. Mitigated DNS.
22

23 A. As provided in this section and in WAC 197-11-350, the responsible official may
24 issue a DNS based on conditions attached to the proposal by the responsible official or
25 on changes to, or clarifications of, the proposal made by the applicant.
26

27 B. An applicant may request in writing early notice of whether a DS is likely under
28 WAC 197-11-350. The request must:
29

30 1. Follow submission of a permit application and environmental checklist for a
31 nonexempt proposal for which the District is lead agency; and
32

33 2. Precede the District's actual threshold determination for the proposal.
34

35 C. The responsible official should respond to the request for early notice within 14
36 working days. The response shall:
37

38 1. Be written;
39

40 2. State whether the District currently considers issuance of a DS likely and, if
41 so, indicate the general or specific areas of concern that are leading the District to
42 consider a DS; and
43

44 3. State that the applicant may change or clarify the proposal to mitigate the
45 indicated impacts, revising the environmental checklist and/or permit application as
46 necessary to reflect the changes or clarifications.

1
2 D. As much as possible, the responsible official should assist the applicant with
3 identification of impacts to the extent necessary to formulate mitigation measures.
4

5 E. When an applicant submits a changed or clarified proposal along with a revised
6 or amended environmental checklist, the responsible official shall base the threshold
7 determination on the changed or clarified proposal and should make the determination
8 within 15 days of receiving the changed or clarified proposal:
9

10 1. If the responsible official indicated specific mitigation measures in the
11 response to the request for early notice, and the applicant changed or clarified the
12 proposal to include those specific mitigation measures, the responsible official shall
13 issue and circulate a DNS under WAC 197-11-340(2).
14

15 2. If the responsible official indicated areas of concern, but did not indicate
16 specific mitigation measures that would allow issuance of a DNS, the responsible official
17 shall make the threshold determination, issuing a DNS or DS as appropriate.
18

19 3. The applicant's proposed mitigation measures (clarifications, changes or
20 conditions) must be in writing and must be specific. For example, proposals to "control
21 noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle
22 machinery to X decibel" or construct "200-foot storm water retention pond at Y location"
23 are adequate.
24

25 4. Mitigation measures which justify issuance of a mitigated DNS may be
26 incorporated in the DNS by reference to agency staff reports, studies or documents.
27

28 F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a 14-day
29 comment period and public notice.
30

31 G. Mitigation measures incorporated in the mitigated DNS shall be deemed
32 conditions of approval of the permit decision and may be enforced in the same manner
33 as any term or condition of the permit, or enforced in any manner specifically prescribed
34 by the District.
35

36 H. If the responsible official's tentative decision on a permit or approval does not
37 include mitigation measures that were incorporated in a mitigated DNS for the proposal,
38 the responsible official should evaluate the threshold determination to assure
39 consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
40

41 I. The responsible official's written response under subsection B of this section
42 shall not be construed as a determination of significance. In addition, preliminary
43 discussion of clarifications or changes to a proposal, as opposed to a written request for
44 early notice, shall not bind the responsible official to consider the clarifications or
45 changes in the threshold determination.
46

1 Section 11. Environmental Impact Statements – Adoption by Reference.

2
3 A. The District adopts the following sections by reference:

4
5 WAC

6

7	197-11-400	Purpose of EIS.
8	197-11-402	General requirements.
9	197-11-405	EIS types.
10	197-11-406	EIS timing.
11	197-11-408	Scoping.
12	197-11-410	Expanded scoping.
13	197-11-420	EIS preparation.
14	197-11-425	Style and size.
15	197-11-430	Format.
16	197-11-435	Cover letter or memo.
17	197-11-440	EIS contents.
18	197-11-442	Contents of EIS on nonproject proposals.
19	197-11-443	EIS Contents when prior nonproject EIS.
20	197-11-444	Elements of the environment.
21	197-11-448	Relationship of EIS to other considerations.
22	197-11-450	Cost benefit analysis.
23	197-11-455	Issuance of DEIS.
24	197-11-460	Issuance of FEIS.

25

26 B. Preparation of draft and final EISs (DEIS and FEIS) and draft and final
27 supplemental EISs (SEIS) is the responsibility of the responsible official. Before the
28 District issues an EIS, the responsible official shall be satisfied that it complies with this
29 resolution and chapter 197-11 WAC.

30
31 C. The DEIS and FEIS or draft and final SEIS shall be prepared by District staff,
32 District contractors, the applicant, or a consultant selected by the District and the
33 applicant. If the responsible official requires an EIS for a proposal and determines that
34 someone other than the District will prepare the EIS, the responsible official shall notify
35 the applicant immediately after completion of the threshold determination. The
36 responsible official shall also notify the applicant of the District's procedure for EIS
37 preparation, including approval of the DEIS and FEIS prior to distribution.

38
39 D. The responsible official may require an applicant to provide information the
40 District does not possess, including specific investigations. However, the applicant is not
41 required to supply information that is not required under this resolution or that is being
42 requested from another agency. (This does not apply to information the District may
43 request under another resolution or statute.)

1 Section 12. Commenting – Adoption by Reference.

2
3 A. This section contains rules for consulting, commenting and responding on all
4 environmental documents under SEPA, including rules for public notice and hearings.

5
6 B. The District adopts the following sections by reference:

7
8 WAC

9

10	197-11-500	Purpose of this part.
11	197-11-502	Inviting comment.
12	197-11-504	Availability and cost of environmental documents.
13	197-11-508	SEPA register.
14	197-11-510	Public notice.
15	197-11-535	Public hearings and meetings.
16	197-11-545	Effect of no comment.
17	197-11-550	Specificity of comments.
18	197-11-560	FEIS response to comments.
19	197-11-570	Consulted agency costs to assist lead agency.

20

21 C. Whenever the District issues a DNS under WAC 197-11-340 (2) or a DS under
22 WAC 197-11-360(3), the District shall give public notice as follows:

23
24 1. If public notice is required for a nonexempt license or approval, the notice
25 shall state whether a DS or DNS has been issued and when comments are due.

26
27 2. If no public notice is required for the permit or approval, the District shall
28 give notice of the DNS or DS by publishing notice in a newspaper of general circulation
29 in the District or general area where the proposal is located.

30
31 D. Whenever the District issues a DS under WAC 197-11-360(3), the District shall
32 state the scoping procedure for the proposal in the DS as required in WAC 197-11-408
33 and in the public notice.

34
35 E. Whenever the District issues a DEIS under WAC 197-11-455(5) or a SEIS
36 under WAC 197-11-620, notice of the availability of documents shall be given by
37 indicating the availability of the DEIS in any public notice required for a nonexempt
38 license or approval and publishing notice in a newspaper of general circulation in the
39 District or general area where the proposal is located.

40
41 F. Whenever possible, the District shall integrate the public notice required under
42 this section with existing notice procedures for the District's nonexempt permits or
43 approvals required for the proposal.

44
45 G. The District may require an applicant to complete the public notice requirements
46 for the proposal at the applicant's expense.

1
2 H. The responsible official shall be responsible for preparation of written comments
3 for the District in response to a consultation request prior to a threshold determination
4 participation in scoping and reviewing a DEIS.

5
6 I. The responsible official shall be responsible for the District's compliance with
7 WAC 197-11-550 whenever the District is a consulted agency and is authorized to
8 develop operating procedures that will ensure timely responses to consultation
9 requests.

10
11 Section 13. Using Existing Environmental Documents.

12
13 A. This section contains rules for using and supplementing existing environmental
14 documents prepared under SEPA or the National Environmental Policy Act ("NEPA") for
15 the District's own environmental compliance.

16
17 B. The District adopts the following sections by reference:

18
19 WAC

20		
21	197-11-164	Planned actions- Definition and criteria.
22	197-11-168	Ordinances or resolutions designating planned actions-Procedures
23		for adoption.
24	197-11-172	Planned actions- Project review.
25	197-11-600	When to use existing environmental documents.
26	197-11-610	Use of NEPA documents.
27	197-11-620	Supplemental environmental impact statement procedures.
28	197-11-625	Addenda-Procedures.
29	197-11-630	Adoption-Procedures.
30	197-11-635	Incorporation by reference-Procedures.
31	197-11-640	Combining documents.
32		

33 Section 14. SEPA and Agency Decisions.

34
35 A. Sections 14 through 16 contain rules and policies for SEPA's substantive
36 authority, such as decisions to mitigate or reject proposals as a result of SEPA, and for
37 appealing SEPA determinations to agencies or courts.

38
39 B. The District adopts the following sections by reference:

40
41 WAC

42		
43	197-11-650	Purpose of this part.
44	197-11-655	Implementation.
45	197-11-660	Substantive authority and mitigation.
46	197-11-680	Appeals.

1
2 Section 15. Substantive Authority.
3

4 A. The policies and goals set forth in this resolution are supplemental to those in the
5 existing authorization of the District.
6

7 B. The District may attach conditions to a permit or approval as long as:
8

9 1. The conditions are necessary to mitigate specific probable adverse
10 environmental impacts identified in environmental documents prepared pursuant to this
11 resolution;
12

13 2. The conditions are in writing;
14

15 3. The mitigation measures included in the conditions are reasonable and
16 capable of being accomplished;
17

18 4. The District has considered whether other local, state, or federal mitigation
19 measures applied to the proposal are sufficient to mitigate the identified impacts; and
20

21 5. The conditions are based on one or more policies in subsection D of this
22 section and cited in the approval or other decision document.
23

24 C. The District may deny a permit or approval for a proposal on the basis of SEPA
25 as long as:
26

27 1. A finding is made that approving the proposal would result in probable
28 significant adverse environmental impacts that are identified in a FEIS or final SEIS
29 prepared pursuant to this resolution;
30

31 2. A finding is made that there are no reasonable mitigation measures capable
32 of being accomplished that are sufficient to mitigate the identified impact; and
33

34 3. The denial is based on one or more policies identified in subsection D of this
35 section and identified in writing in the decision document.
36

37 D. The District designates and adopts by reference the following policies as the
38 basis for the District's exercise of authority pursuant to this section:
39

40 1. The District shall use all practical means, consistent with other essential
41 considerations of state policy, to improve and coordinate plans, functions, programs and
42 resources to the end that the state and its citizens may:
43

44 a. Fulfill the responsibilities of each generation of trustee of the
45 environment for succeeding generations;
46

1 b. Assure for all people of Washington safe, healthful, productive, and
2 aesthetically and culturally pleasing surroundings;

3
4 c. Attain the widest range of beneficial uses of the environment without
5 degradation, risk to health or safety, or other undesirable and unintended
6 consequences;

7
8 d. Preserve important historic, cultural, and natural aspects of our national
9 heritage;

10
11 e. Maintain, wherever possible, an environment which supports diversity
12 and variety of individual choice;

13
14 f. Achieve a balance between population and resource use which will
15 permit high standards of living and a wide sharing of life's amenities; and

16
17 g. Enhance the quality of renewable resources and approach the maximum
18 attainable recycling of depletable resources.

19
20 2. The District recognizes that each person has a fundamental and inalienable
21 right to a healthy environment and that each person has a responsibility to contribute to
22 the preservation and enhancement of the environment.

23
24 Section 16. Appeals.

25
26 A. The District's threshold determination and EIS shall be issued before the decision
27 on the proposal. Any person adversely affected by the threshold determination or the
28 EIS may appeal the District's decision by filing a notice of appeal with the clerk of the
29 board of supervisors. The notice of appeal shall be sufficiently detailed so as to provide
30 reasonable notice to the District of:

31
32 1. How the person or the person's property is adversely affected by the
33 proposal;

34
35 2. Any new facts which would be important to and affect the determination;
36 and

37
38 3. The reasons why the determination was incorrect.

39
40 The notice of appeal shall be accompanied by a filing fee of \$50.00.

41
42 B. The threshold determination and the EIS adequacy may be appealed only once.

43
44 C. The notice of appeal shall be filed within 14 days of the date of the determination
45 or of the date of any required notice, whichever is later; provided, that if there is a

comment period under WAC 197-11-340 or 197-11-350, the notice of appeal shall be filed within 21 days of such date.

D. The appeal shall be consolidated with any hearing or appeal on the proposal, except that the following appeals need not be so consolidated:

1. An appeal of a determination of significance;
2. An appeal of a threshold determination or EIS adequacy where the District is a project proponent, or is funding a project, and the District conducts its SEPA review, including appeals, prior to submitting an application for the project permit; and
3. An appeal of a threshold determination or EIS adequacy on a non-project action.

E. The board of supervisors shall conduct the appeal, unless either the board of supervisors or the District executive committee designates a hearing examiner to conduct the appeal. The board of supervisors or the hearing examiner, if applicable, shall schedule the appeal for hearing no later than 45 days after the filing of the appeal. The hearing shall be recorded, shall provide for testimony under oath and shall otherwise be in accord with applicable law. Within 30 days of the conclusion of the hearing, the board or the hearing examiner, as applicable, shall render a decision accompanied by appropriate findings of fact and conclusions of law. The decision shall contain a notice of the date and place for commencing an appeal to the superior court, in accordance with WAC 197-11-680(5).

F. In an appeal, the determination of the responsible official shall be entitled to substantial weight.

G. No person having a right to judicial appeal shall pursue judicial review without having first used this administrative appeal process prior to seeking judicial review, unless expressly provided otherwise by state statute.

H. The decision of the board of supervisors or hearing examiner, as applicable, may only be appealed to superior court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075.

Section 17. Notice – Statute of Limitations.

The District, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the county auditor, applicant or proponent pursuant to RCW 43.21C.080.

Section 18. Definitions – Adoption by Reference.

1 A. This section contains uniform usage and definitions of terms under SEPA.

2
3 B. The District adopts the following sections by reference, as supplemented by
4 section 3:

5
6 WAC

7
8 197-11-700 Definitions.
9 197-11-702 Act.
10 197-11-704 Action
11 197-11-706 Addendum.
12 197-11-708 Adoption.
13 197-11-710 Affected tribe.
14 197-11-712 Affecting.
15 197-11-714 Agency.
16 197-11-716 Applicant.
17 197-11-718 Built environment.
18 197-11-720 Categorical exemption.
19 197-11-721 Closed record appeal.
20 197-11-712 Consolidated appeal.
21 197-11-724 Consulted agency.
22 197-11-726 Cost-benefit analysis.
23 197-11-728 County/city.
24 197-11-730 Decision maker.
25 197-11-732 Department.
26 197-11-734 Determination of nonsignificance (DNS).
27 197-11-736 Determination of significance (DS).
28 197-11-738 EIS.
29 197-11-740 Environment.
30 197-11-742 Environmental checklist.
31 197-11-744 Environmental document.
32 197-11-746 Environmental review.
33 197-11-750 Expanded scoping.
34 197-11-752 Impacts.
35 197-11-754 Incorporation by reference.
36 197-11-756 Land covered by water.
37 197-11-758 Lead agency.
38 197-11-760 License.
39 197-11-762 Local agency.
40 197-11-764 Major action.
41 197-11-766 Mitigated DNS.
42 197-11-768 Mitigation.
43 197-11-770 Natural environment.
44 197-11-772 NEPA.
45 197-11-774 Nonproject.
46 197-11-775 Open record hearing.

1 197-11-776 Phased review.
2 197-11-778 Preparation.
3 197-11-780 Private project.
4 197-11-782 Probable.
5 197-11-784 Proposal.
6 197-11-786 Reasonable alternative.
7 197-11-788 Responsible official.
8 197-11-790 SEPA.
9 197-11-192 Scoping.
10 197-11-794 Significant.
11 197-11-796 State agency.
12 197-11-797 Threshold determination.
13 197-11-799 Underlying governmental action.

14
15 Section 19. Categorical Exemptions. The District adopts by reference the
16 following rules for categorical exemptions as supplemented in this resolution, including
17 WAC 173-806-080:

18
19 WAC

20
21 197-11-800 Categorical exemptions.
22 197-11-880 Emergencies.
23 197-11-890 Petitioning DOE to change exemptions.

24
25 Section 20. Agency Compliance – Adoption by Reference.

26
27 A. This section contains rules for District compliance with SEPA, including rules for
28 charging fees under the SEPA process, designating categorical exemptions that do not
29 apply within critical areas, listing agencies with environmental expertise, selecting the
30 lead agency and applying these rules to current District activities.

31
32 B. The District adopts the following sections by reference:

33
34 WAC

35
36 197-11-900 Purpose of this part.
37 197-11-902 Agency SEPA policies.
38 197-11-916 Application to ongoing actions.
39 197-11-920 Agencies with environmental expertise.
40 197-11-922 Lead agency rules.
41 197-11-924 Determining the lead agency.
42 197-11-926 Lead agency for governmental proposals.
43 197-11-928 Lead agency for public and private proposals.
44 197-11-930 Lead agency for private projects with one agency with jurisdiction.
45 197-11-932 Lead agency for private projects requiring licenses from more than
46 one agency, when one of the agencies is a county/city.

- 1 197-11-934 Lead agency for private projects requiring licenses from a local
- 2 agency, not a county/city and one or more state agencies.
- 3 197-11-936 Lead agency for private projects requiring licenses from more than
- 4 one state agency.
- 5 197-11-938 Lead agencies for specific proposals.
- 6 197-11-940 Transfer of lead agency status to a state agency.
- 7 197-11-942 Agreements on lead agency status.
- 8 197-11-944 Agreements on lead agency duties.
- 9 197-11-946 DOE resolution of lead agency disputes.
- 10 197-11-948 Assumption of lead agency status.

11
12 C. The District shall require the following fees for its activities in accordance with the
13 provisions of this resolution:

14
15 1. Threshold determination. For every environmental checklist the District will
16 review when it is lead agency, the District shall collect a fee of \$150.00 from the
17 proponent of the proposal prior to undertaking the threshold determination. The time
18 periods provided by this resolution for making a threshold determination shall not begin
19 to run until payment of the fee.

20
21 2. Environmental impact statement.

22
23 a. When the District is the lead agency for a proposal requiring an EIS and
24 the responsible official determines that the EIS shall be prepared by the District, the
25 District may charge and collect a reasonable fee from any applicant to cover costs
26 incurred by the District in preparing the EIS. The responsible official shall advise the
27 applicant of the projected costs for the EIS prior to actual preparation, and the applicant
28 shall post bond or otherwise ensure payment of such costs.

29
30 b. The responsible official may determine that the District will contract
31 directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities
32 initiated by some persons or entity other than the District and may bill such costs and
33 expenses directly to the applicant. The District may require the applicant to post bond or
34 otherwise ensure payment of such costs. The consultants shall be selected by mutual
35 agreement of the District and the applicant after a call for proposals.

36
37 c. If a proposal is modified so that an EIS is no longer required, the
38 responsible official shall refund any fees collected under (a) or (b) of this subsection
39 which remain after incurred costs are paid.

40
41 3. The District may collect a reasonable fee from an applicant to cover the cost
42 of meeting the public notice requirements of this resolution relating to the applicant's
43 proposal.

44
45 4. The District shall not collect a fee for performing its duties as a consulted
46 agency.

1
2 5. The District may charge any person for copies of any document prepared
3 under this resolution and for mailing the document, in a manner provided by Chapter
4 42.56 RCW.

5
6 Section 21. Supplemental Procedures.

7
8 The responsible official is authorized to develop and promulgate such procedures
9 as the responsible official deems appropriate for implementing the SEPA rules and this
10 resolution. The responsible official shall provide responses on behalf of the District
11 when it is a consulted agency.

12
13 Section 22. Severability.

14
15 If any provisions of this resolution or its application to any person or
16 circumstances is held invalid, the remainder of this resolution, or the provision to other
17 persons or circumstances, shall not be affected.

18
19 Section 23. Forms.

20
21 The District adopts the following forms and selections by reference:

22
23 WAC

24
25 197-11-960 Environmental checklist.
26 197-11-965 Adoption notice.
27 197-11-970 Determination of nonsignificance (DNS).
28 197-11-980 Determination of significance and scoping notice (DS).
29 197-11-985 Notice of assumption of lead agency status.
30 197-11-990 Notice of action.


31
32
33
34 ADOPTED this 7th day of November, 2012.

35
36
37
38 ATTEST:

39 PIERCE COUNTY FLOOD CONTROL
40 ZONE DISTRICT
41 Pierce County, Washington

42
43 

44 Cathy Sala, Clerk of the Board


Board Chair