

RESOLUTION NO. 324

ADOPTION OF GUIDELINES FOR IMPLEMENTATION OF THE STATE ENVIRONMENTAL POLICY ACT (RCW 43.21C)

WHEREAS, the State Environmental Policy Act ("SEPA", RCW 43.21C) established the Council on Environmental Policy ("CEP") to establish and adopt guidelines for the implementation of SEPA, and

WHEREAS, CEP did adopt such guidelines effective January 16, 1976, which are codified as WAC 197-10, and

WHEREAS, SEPA and said guidelines require the District to establish its own implementing regulations consistent with WAC 197-10,

THEREFORE, BE IT RESOLVED:

SECTION I

POLICIES

The District hereby adopts by reference the policies of SEPA as set forth in RCW 43.21C.010 and RCW 43.21C.020.

SECTION II

ADOPTION BY REFERENCE

The District hereby adopts by reference the following sections of Chapter 197-10 of the Washington Administrative Code:

WAC 197-10-

Subject

- (1) -040 Definitions
- (2) -060 Scope of a Proposal and its Impacts for the Purposes of Lead Agency Determination, Threshold Determination, and EIS Preparation
- (3) -100 Summary of Information Which May be Required of a Private Applicant
- (4) -160 No Presumption of Significance for Non-Exempt Actions
- (5) -170 Categorical Exemptions
- (6) -200 Lead Agency -- Responsibilities
- (7) -203 Determination of Lead Agency -- Procedures
- (8) -205 Lead Agency Designation -- Governmental Proposals
- (9) -210 Lead Agency Designation -- Proposals Involving Both Private and Public Construction Activity
- (10) -215 Lead Agency Designation -- Private Projects for Which There is Only One Agency With Jurisdiction
- (11) -220 Lead Agency Designation -- Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies is a County/City
- (12) -230 Lead Agency Designation -- Specific Proposals
- (13) -240 Agreements as to Lead Agency Status
- (14) -245 Agreements Between Agencies As to Division of Lead Agency Duties

- (15) -300 Threshold Determination Re-
quirements
- (16) -310 Threshold Determination Pro-
cedures -- Environmental Check-
list
- (17) -320 Threshold Determination Pro-
cedures -- Initial Review of
Environmental Checklist
- (18) -330 Threshold Determination Pro-
cedures -- Information in
Addition to Checklist
- (19) -340 Threshold Determination Pro-
cedures -- Negative Declara-
tions
- (20) -345 Assumption of Lead Agency
Status by Another Agency With
Jurisdiction -- Prerequisites,
Effect and Form of Notice
- (21) -350 Affirmative Threshold Deter-
minations
- (22) -355 Form of Declaration of Sig-
nificance/Non-Significance
- (23) -360 Threshold Determination Cri-
teria -- Application on Envi-
ronmental Checklist
- (24) -365 Environmental Checklist
- (25) -370 Withdrawal of Affirmative
Threshold Determination
- (26) -375 Withdrawal of Negative Threshold
Determination
- (27) -390 Effect of Threshold Determina-
tion by Lead Agency
- (28) -400 Duty to Begin Preparation of
a Draft EIS
- (29) -405 Purpose and Function of a
Draft EIS

(30)	-410	Pre-Draft Consultation Procedures
(31)	-425	Organization and Style of a Draft EIS
(32)	-440	Contents of a Draft EIS
(33)	-442	Special Considerations Regarding Contents of an EIS on a Non-Project Action
(34)	-444	List of Elements of the Environment
(35)	-450	Public Awareness of Availability of Draft EIS
(36)	-455	Circulation of the Draft EIS -- Review Period
(37)	-460	Specific Agencies to Which Draft EIS Shall be Sent
(38)	-465	Agencies Possessing Environmental Expertise
(39)	-470	Costs to the Public for Reproduction of Environmental Documents
(40)	-480	Public Hearing on a Proposal -- When Required
(41)	-485	Notice of Public Hearing on Environmental Impact of the Proposal
(42)	-490	Notice of Public Hearing on Environmental Impact of the Proposal
(43)	-495	Preparation of Amended or New Draft EIS
(44)	-500	Responsibilities of Consulted Agencies -- Local Agencies
(45)	-530	Responsibilities of Consulted Agencies -- When Pre-draft Consultation Has Occurred
(46)	-535	Cost of Performance of Consulted Agency Responsibilities

- (47) -540 Limitations on Responses to Consultation
- (48) -545 Effect of No Written Comment
- (49) -550 Preparation of the Final EIS -- Time Period Allowed
- (50) -570 Preparation of the Final EIS -- Contents -- When No Critical Comments Received on the Draft EIS
- (51) -580 Preparation of the Final EIS -- Contracts -- When Critical Comments Received on the Draft EIS
- (52) -600 Circulation of the Final EIS
- (53) -650 Effect of an Adequate Final EIS Prepared Pursuant to NEPA
- (54) -652 Supplementation of a Lead Agency of an Inadequate Final NEPA EIS
- (55) -660 Use of Previously Prepared EIS for a Different Proposed Action
- (56) -690 Use of a Lead Agency's EIS by Other Acting Agencies for the Same Proposal
- (57) -695 Draft and Final Supplements to a Revised EIS
- (58) -700 No Action for Seven Days After Publication of the Final EIS.
- (59) -840 Application of Agency Guidelines to on-going Actions.

SECTION III

TIMING

(1) The primary purpose of the EIS process is to provide environmental information to governmental decision-makers to be considered prior to making their decision. The process should thus be completed before the decisions of an agency commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis.

(2) As a lead agency the District should complete the threshold determination and any required EIS at the earliest point in the planning and decision-making process when the principal features of a proposal and its impacts upon the environment can be reliably identified. At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action or any decision which irreversibly commits the District to approving or adopting the proposal.

(3) For any proposed action the following determinations shall be made as part of the initial review of every pro-

posal, subject to the specified time limits which time limits shall be only applicable to private projects:

(a) Preliminary determinations:

(i) A determination as to the scope of a total proposal.

(ii) A determination whether the particular project or proposal is an "action."

(iii) A determination whether the project or proposal is categorically exempt.

(iv) The determinations set forth in subsections (a), (b) and (c) hereof shall be made within seven (7) days following submission of a request for preliminary determination by a private applicant to the responsible official.

(b) Threshold determination:

(i) A threshold determination which can be made based upon review of the environmental checklist submitted by a private applicant should be completed within fifteen (15) days of submission of the completed checklist to the responsible official.

(ii) A threshold determination requiring further information from a private applicant or consultation with other agencies with jurisdiction should be completed within fifteen (15) days of receiving the information requested from the private applicant or the consulted agency; requests by

the District for such further information should be made within fifteen (15) days of the submission of the 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.

(iii) A threshold determination which requires that further studies, including field investigations, be initiated by the District should be completed within thirty (30) days of submission of the completed checklist to the responsible official.

(iv) When a threshold determination is expected to require more than fifteen (15) days to complete and a private applicant requests notification of the date when the threshold determination will be made, the responsible official shall transmit to the private applicant a written statement as to the expected date of decision.

(v) If a private applicant recommends in writing accompanied by a completed environmental checklist that an EIS be prepared because of any significant environmental impact asserted and described, the responsible official shall determine within seven (7) days of receipt of such recommendation whether an EIS shall be required or not. If the responsible official determines that an EIS is not required, a threshold determination shall be completed within fifteen (15) days of the submission of such a recommendation.

(vi) When the District is both the proponent of an action and the lead agency, and the responsible official has determined that an EIS is to be done for the proposal, no

environmental checklist is required.

SECTION IV

LEAD AGENCY DETERMINATION AND RESPONSIBILITIES

(1) For any proposal the District receives or initiates, any portion of which involves a major action, the lead agency for that proposal shall be determined pursuant to the criteria set forth in WAC 197-10-205 through -270, using the procedures of Section II.(7) hereof. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined. A lead agency must be an agency with jurisdiction.

(2) When making a lead agency determination for a private project the responsible official shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal.

(3) In those instances in which the District is not the lead agency under the criteria set forth in WAC 197-10-205 through WAC 197-10-270, the District shall utilize and consider as appropriate a declaration of non-significance or final EIS of the lead agency or a final EIS prepared pursuant to the National Environmental Policy Act (in conjunction with the decisions of the District on the proposal, subject, however, to the requirements as appropriate of Sections II(27), II(53), II(54), II(55), and II(56) hereof.

(4) In the event that the District or any department

thereof 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 CEP for a lead agency determination pursuant to WAC 197-10-260 within such fifteen (15) day time period. Any such petition on behalf of the District shall be initiated by the Manager or his designee.

SECTION V

EMERGENCY ACTIONS

Any action which in the opinion of the District's responsible official must be undertaken immediately, or within a time too short to allow full compliance with the provisions of this Resolution, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this Resolution.

SECTION VI

USE AND EFFECT OF CATEGORICAL EXEMPTIONS

(1) Those activities excluded from the definition of "action" in Section II(1) hereof, or categorically exempted by Section II(7) and Section V hereof, are exempt from the threshold determination (including completion of the environ-

mental checklist) and EIS requirements of this Resolution and RCW 43.21C.030(2)(c) and (2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

(3) If the proposal includes a series of categorically exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not categorically exempt.

(4) For a proposal covered by subsections (2) and (3) above, categorically exempt activities or actions may be undertaken prior to the threshold determination, subject to the timing considerations in Section III hereof.

(5) In performing its functions under this chapter, the District shall recognize and give effect to WAC 197-10-175 which established exemptions specific to other agencies.

(6) In its actions, the District shall respect "environmentally sensitive areas" and their modified exemption criteria which have been adopted and displayed by the appropriate county/city pursuant to WAC 197-10-177.

SECTION VII

PREPARATION OF AN EIS

(1) Preparation of an EIS is the responsibility of the lead agency, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the lead agency. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of these guidelines and the guidelines of the lead agency.

(2) An EIS may be prepared by a private applicant or agent thereof, or by an outside consultant retained by either a private applicant or the lead agency. In any such case, the responsible official within the lead agency 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. 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.

(3) If a person other than the lead agency is preparing the EIS, the responsible official will coordinate any pre-draft consultation procedures so that the person pre-

paring the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the lead agency which are relevant to the subject matter of the EIS pursuant to RCW 42.17 (Public Disclosure and Public Records Law; Initiative 276, 1973), or are not otherwise privileged.

(4) A private applicant may be required or authorized to participate in the preparation of an EIS if the responsible official determines that this will aid in preparing a meaningful environmental analysis. In such a case:

(a) The EIS shall be prepared under the direction of the responsible official and as required by this Resolution.

(b) A private applicant may not be required to provide more information than allowed by this chapter, but the responsible official may authorize a lesser degree of participation by a private applicant than allowed herein: PROVIDED, That nothing herein shall be construed to prohibit an agency from charging any fee of an applicant which the agency is otherwise authorized to charge. The private applicant may, however, volunteer to provide any information or effort desired so long as the contents and organization

of the resulting EIS are supervised and approved by the responsible official as required by this Resolution.

SECTION VIII

RESPONSIBLE OFFICIAL

(1) The responsible official shall be the Manager or his designee. If the Manager designates an employee as responsible official for any proposed action or class of actions he shall be guided by the nature of the proposal and the administrative decision-making process normally employed by the District. Such designation may be made in procedures promulgated pursuant to Section XIII hereof.

(2) The responsible official shall carry out the duties and functions of this Resolution for the District when it is acting as lead agency. This includes but is not limited to duties involving the threshold determination and any required EIS.

SECTION IX

DESIGNATION OF OFFICIAL TO PERFORM CONSULTED
AGENCY RESPONSIBILITIES FOR DISTRICT

Any request for consultation with the District by another agency shall be directed to the Manager. Responses to such requests for consultation shall be set forth in procedures established pursuant to Section XIII hereof.

SECTION X

INTEGRATION OF SEPA PROCEDURES WITH OTHER
GOVERNMENTAL OPERATIONS

These SEPA procedures shall be integrated with existing planning, review, project approval and licensing procedures utilized by the District. When required to be prepared, any declaration of significance or non-significance, any EIS, or any previously circulated EIS being utilized pursuant to Section II(55) hereof, shall accompany a proposal through the existing review processes.

SECTION XI

SEPA PUBLIC INFORMATION CENTER

(1) The following location constitutes the District's SEPA Public Information Center:

SILVER LAKE WATER DISTRICT
2210 132nd St SE
Everett, Wash. 98204

Telephone: (206) 337-3647

(2) The Manager shall use all reasonable means to make the existence and location of the District's SEPA Public Information Center known to both the public generally and the employees of the District.

(3) The SEPA Public Information Center shall contain the documents and provide the services required by WAC 197-10-830.

SECTION XII

STATUTE OF LIMITATIONS

(1) The Manager should examine the option of following the procedures of RCW 43.21C.080 and .085 to utilize the statute of limitations provision relating to SEPA compliance. This procedure is activated by the actual execution of the subject action (i.e., issuance of permit or approval).

(2) The District shall utilize for any action by it involving or related to a project for which any agency including the District has previously taken an action and for which a detailed statement (EIS) has been previously prepared, such previously prepared detailed statement, as long as there is no substantial change in the project between the time of any earlier action and the subsequent action of the District. The previous detailed statement shall be supplemented only if in the opinion of the appropriate responsible official the provisions of Section II(53), II(54), II(55) or II(56) hereof would so require.

SECTION XIII

SUPPLEMENTARY RULES AND PROCEDURES

The Manager subject to the provisions of this Resolution is hereby authorized and directed to develop and promulgate such procedures as he deems appropriate for implementing the provisions of this Resolution.

SECTION XIV

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.

ADOPTED at a Regular meeting of the Commission of the District on June 23, 1976.

[Signature]
President

Attest:

[Signature]
Secretary

[Signature]
Vice President

COMMENTS FOR CONSIDERATION BY MANAGER AND ATTORNEY
WHEN UTILIZING MODEL RESOLUTION

1. ADOPTING BY REFERENCE.

Recent state legislation (SHB 1612) permits your Board to adopt by reference sections of the Council on Environmental Policy SEPA Guidelines set out in WAC 197-10. However, you must have one full copy of those provisions to be adopted by reference at the Board meeting when the resolution is passed (see Section II of the model ordinance); and you must have three copies of the provisions on file for public inspection. Copies of the CEP SEPA Guidelines may be obtained for eight-five cents each plus mailing costs from the Council on Environmental Policy No. Five South Sound Center, Olympia, Washington 98504.

2. SEPA POLICIES (Section I).

In an early draft of the CEP's SEPA Guidelines there was a provision dealing with the substantive duty of agencies to mitigate or eliminate adverse environmental impacts when taking an action. The basis for such a provision is that SEPA requires that you consider the environment; and this consideration entails the responsibility to protect it. See Eastlake Community Council v. Roanoke Associates, 82 Wn.2d 475, 497 fn. 6, 513 P.2d 36 (1973). The provision was dropped from the final SEPA Guidelines; and the CEP's Guidelines specifically provide that the issue of the substantive effect that SEPA has upon agency decision-making is not addressed. See WAC 197-10-025(2).

Should your District desire to include a provision regarding the substantive effect of SEPA, you might consider the following language adopted from the Department of Ecology's model SEPA ordinance:

The District possesses the authority to deny or condition actions so as to mitigate or prevent adverse environmental impacts. This authority applies to all district activities whether categorically exempt or not.

Even with such a provision the District would not be necessarily required to favor environmental factors over other considerations. We, however, have not recommended to the District that this provision be included in the model resolution since only the procedural aspects of SEPA are involved.

3. PROVISIONS NOT ADOPTED BY REFERENCE (Section II).

Not all sections of the CEP Guidelines are relevant to your District and were not included in Section II of the model resolution. For example, WAC 197-10-235 deals with small cities and towns being authorized to transfer lead agency status to the state agency. Other sections while not directly related to your District nonetheless may affect your procedures. Where appropriate we have referenced these sections. For example, see Section V(5) of the model resolution which deals with categorical exemptions specific to agencies other than you. Finally, certain sections of the guidelines require specific modification or definition of procedures by you. As appropriate, these sections are adopted or modified specifically in the model resolution. For example, Section III of the model resolution deals with timing constraints (see WAC 197-10-055(1)). However, it is our opinion that sections of WAC 197-10 not adopted by reference or otherwise dealt with in the model resolution would still be applicable insofar as practicable to the extent that they are not inconsistent with your provisions. (See, for example, WAC 197-10-020 dealing with the purpose of the CEP Guidelines). Should you have any questions as to why a section of the CEP Guidelines was not adopted by reference in Section II, please call Mr. Joel Haggard at (206) 623-6501.

4. AVAILABILITY OF EIS (Section II(35)).

WAC 197-10-450 deals with making the public aware of the availability of a draft EIS. It requires reasonable steps but does not specifically require any one method to be used. We have adopted WAC 197-10-450 by reference to permit you the flexibility to chose the method in any individual case. Should you desire instead to specify what methods must be used, Section II (35) of the model ordinance should be deleted and a new section added specifying what you will require.

5. ADDITIONAL DEFINITIONS.

We are not recommending any additionally required definitions. You may wish to consider whether you want to define "SEPA Guidelines" as meaning "WAC 197-10."

For larger districts, you may wish to add the following broad definition for use in conjunction with the identification of a responsible official:

Department shall mean any division, subdivision or organizational or administrative unit of the district.

The reasons for this are discussed in Comment 10 below.

6. TIMING.

Section III(1) reflects general timing considerations for SEPA compliance set out in WAC 197-10-055(1). Section III(2) combines provisions regarding general timing constraints from various parts of the CEP Guidelines. (See WAC 197-10-055(1), - 055(2), and -190(3))

Section III(3) provides timing constraints to satisfy the mandate in the sixth sentence of WAC 197-10-055(1). This approach renders adoption of WAC 107-10-305 unnecessary. The timing constraints need only be followed when a private applicant is involved.

Section III(3)(b)(vi) incorporates that portion of WAC 197-10-050 not otherwise provided for in the model resolution.

7. EMERGENCY ACTION.

Section V utilizes WAC 197-10-180 to establish the authority for determining which action should be exempt for SEPA for emergency situations. As an alternative you might consider identifying specifically those types of emergency actions which would be exempt. However, we do not understand from consultation with the Districts that this is possible. Should you modify Section VIII as to who might be the responsible official other than the Manager, you may wish to revise Section V to provide only for the Manager to make emergency action determinations.

8. CATEGORICAL EXEMPTIONS.

Section VI dealing with categorical exemptions is based upon WAC 197-10-190. A portion of WAC 197-10-190(3) was removed and placed in Section III(2) of the model resolution.

Section VI(5), (6) are not in WAC 197-10-190 but do relate to other CEP Guideline sections which affect categorical exemption determinations for a total proposal. The provisions were added both as a reminder and as elements to be considered when determining if a total proposal is itself exempt (see Section VI(2), (3) of model resolution).

9. EIS PREPARATION.

Section VII dealing with EIS preparation is based upon WAC 197-10-420. The first three subsections of each are virtually identical. Section VII(4) relates to WAC 197-10-420(4), (5) and deals with private applicant involvement in the EIS preparation. WAC 197-10-420(4) requires that situations in which private applications may be required or permitted to be involved in the EIS preparation must be "specifically provided". We have suggested specific identification of such situations in terms of whether such involvement will aid in preparing the meaningful environmental analysis. This approach has been taken since Districts do not commonly get involved as a lead agency in licensing private projects for which an EIS may be required. You may wish to consider whether a more specific identification is possible or desirable.

10. RESPONSIBLE OFFICIAL.

The CEP Guidelines require that the District's resolution either designate or provide a method of designating the responsible official with speed and certainty. See WAC 197-10-820. The responsible official is a particular term defined in the SEPA Guidelines. The term relates to the official charged with fulfilling the District's procedural duties under SEPA. The term is not used in the sense of who is responsible ultimately for District operations.

Section VIII has been drafted with smaller districts principally in mind. In such districts the Manager is intimately involved in most operations. However, as the District becomes larger it is unusual for the Manager to be necessarily involved in all recommendations and decisions. The Guidelines specifically state that the responsible official may vary with the nature of a proposal being considered. It is our opinion that the designation of a department head (see Comment 4 above) in such cases as the responsible official is consistent with WAC 197-10-820. Again, depending upon the size of the district and its normal process of operation, it is our opinion that the Manager or the department head could designate another employee as the responsible official for an action or a class of actions. A procedure for such designation should be established pursuant to Section XIII of the model resolution and should provide for a speedy and certain way of identifying the designated responsible official.

By way of caution, identification of a responsible official must be in accord with the basic statutory provisions of SEPA. For an EIS the responsible official is that person who makes a recommendation on a proposal, not the person who makes the decision on it. See RCW 43.21C.030(2)(c). Further, the responsible official is not the last person in the District's decision making process who makes the recommendation. This is inferred from both the guideline provision that the EIS must be done early in the decision making process (see WAC 197-10-055(1)) and the statutory provision that the responsible official's EIS must be considered throughout the agency review process (See RCW 43.21C.030(2)(d); see also WAC 197-10-030, -710).

11. CONSULTATION (Section IX)

The model resolution deliberately leaves to procedures established under Section XIII the specification of internal procedures for responding to consultation requests. Depending upon the size of the District, the frequency with which you are consulted and the the nature of the proposals you are consulted upon, no one method was thought appropriate for all districts. Your internal consultation procedures could utilize a department head or a staff person (i.e., environmental coordinator) to solicit input from anybody in the District with the required information. Whatever administrative process is used the important point is that you are required to respond with the information required by WAC 197-10-500, -530 and -540.

12. INTEGRATION OF SEPA PROCEDURES (Section X)

Both WAC 197-10-030 and -700 address the requirement that the SEPA process be integrated with your existing operations. The basis for this is that SEPA requires that environmental considerations become part of the normal decision making process. The two CEP Guideline sections contain possible conflicts due to slightly different wording. Section X of the model ordinance is based upon these two sections but is specifically intended to be in lieu of them.

13. PUBLIC INFORMATION CENTER (Section XI)

You should insert the information on your SEPA Public Information Center location in the model resolution. This should be at your District headquarters.

The CEP Guidelines provides for the establishment of a regional center (see WAC 197-10-835). If and when one is

established in your county, you then can terminate maintenance of your local center (see Wac 197-10-835)(4). We, however, recommend for convenience and certainty of your own record keeping that you maintain your local center. Should a regional center be established in your county, Section XI of the model resolution should then be amended.

14. STATUTE OF LIMITATIONS. (Section XII)

State law (RCW 43.21C.080), not the CEP Guidelines, deals with the special statute of limitations for environmental challenges to your actions. The provision in Section XII(1) has been included to remind each Manager of this option. The second sentence of this subsection has been added to answer a common question as to whether you can publish notice that an EIS was done and get statute of limitations protection. Our opinion is in the negative; the protection only goes to actions you take on a proposal after the environmental document for that proposal is completed.

Section XII(2) has been added to solely respond to the statutory requirements for invoking the statute of limitation provision for actions subsequent to the original one in a large proposal. See RCW 43.21C.080(2) In order to protect present actions under an earlier statute of limitation publication, your regulations must, among other things, permit the earlier EIS to be used for the subsequent action. Section XII responds to this.

15. SUPPLEMENTARY RULES (Section XIII)

Supplementary procedures would be desirable for responding to situations of SEPA compliance without the need to amend the resolution. You may wish to establish supplementary procedures which print up in one document all the provisions adopted by reference in the model resolutions as modified by other elements therein. This will aid your employees by having only one document to consult. You may wish to provide in supplementary procedures specific checklists (like for the use of WAC 197-10-650, -660 or -690) responsible official designations or other matters to assist in the integration of the SEPA compliance into your normal decision making process.

16. OTHER MATTERS

A. Internal Appeals

WAC 197-10-380 permits you to establish internal

review or appeals of threshold determinations. A provision has not been included in the model ordinance for appeals because of due process requirements and the desirability of using any established appeals process you now have.

You may wish to establish pursuant to Section XIII an informal internal review process. One procedure set out below, has been adopted from one Water District's public records inspection resolution:

"1. Any person who objects to a threshold determination may petition for review of such decision by tendering a written request for review which request shall include a statement of reasons in support of the petition. The written request for review shall specifically refer to the responsible official's threshold determination.

"2. Upon receiving a written request for such review, the responsible official shall refer it to the President of the Board of Commissioners. The President or in his absence a member of the Board, shall consider the matter and either affirm or reverse such threshold determination and return the decision to the person requesting such review within 7 days of written submittal.

"3. Administrative remedies shall not be considered exhausted until the decision has been returned to the person requesting such review."

Providing an appeal process would not preclude court challenge by a member of the public. See WAC 197-10-390(1).

B. Elements of the Environment

CEP's Guidelines define "Environment" as meaning only those subjects identified in WAC 197-10-444. You are permitted for purposes only of additional subjects to be considered in any EIS to add other social, cultural or economic factors. WAC 197-10-446. This is not recommended since you can still discuss these matters in an EIS under a section titled "Other Issues." See WAC 197-10-440 (14). If you are then challenged on the sufficiency of such information you would arguably be tested by the standard of a "brief identification of such problems or issues" instead of on the normal standard of "reasonableness". See WAC 197-10-440.