

FAQ on Scope of EIS Studies for Gateway Pacific Terminal (GPT)

July 31, 2013

Introduction

On July 31, 2013, Whatcom County Planning and Development Services (County), the Washington State Department of Ecology (Ecology), and the U. S. Army Corps of Engineers (Corps) - known together as the co-lead agencies - announced the State Environmental Policy Act (SEPA) scope of analysis and the National Environmental Policy Act (NEPA) scope of analysis, as well as the geographic extent of evaluation, for the Environmental Impact Statement (EIS) for the proposed Gateway Pacific Terminal (GPT) and Custer Spur improvement projects. Information can be accessed via <http://www.eisgatewaypacificwa.gov/resources/project-library>. Here are questions and answers about this decision.

Definitions

Q: What is the “scope” of the studies for the EIS?

A: The “scope” -- or extent of evaluation -- means the range of actions, alternatives, and impacts to be analyzed in an environmental document. Those impacts may be direct, indirect or cumulative. The scope includes the geographic range to be studied, as well as which elements of the natural and built environment that will be studied.

Q: What is SEPA?

A: In Washington, SEPA stands for State Environmental Policy Act. It sets up a process to review proposed projects or government actions that result in likely environmental impacts. Proposed projects undergo a first-level review to determine whether the impacts are likely to be significant. If it is determined that a proposed project will result in significant adverse environmental impacts, a Determination of Significance is issued and the proposal requires the development of an Environmental Impact Statement (EIS). SEPA applies to projects that require local or state permits.

Q: What is NEPA?

A: NEPA stands for National Environmental Policy Act. NEPA requires federal officials to consider environmental values alongside the technical and economic considerations that are inherent factors in federal decision making. NEPA calls for the evaluation of reasonable alternatives to a proposed federal action; solicitation of input from organizations and individuals that could potentially be affected; and the unbiased presentation of direct, indirect, and cumulative environmental impacts of the federal action. This information is used by a federal official before a decision is made. The Corps has agency-specific procedures for implementing NEPA that can be found at 33 CFR 325 Appendix B.

Q: What is an Environmental Impact Statement?

A: An environmental impact statement (EIS) must be prepared when the lead agency (or agencies) determines a proposal is likely to result in significant adverse environmental impacts. The EIS provides an impartial discussion of reasonable alternatives, significant environmental impacts, and mitigation measures that could avoid or reduce significant impacts. For the Gateway Pacific Terminal/Custer Spur proposals, the co-lead agencies will issue a draft EIS with at least a 30-day comment period to allow other agencies, tribes, and the public to comment on the environmental analysis and conclusions. The co-lead agencies will consider these comments before they finalize the environmental analysis and issue a final EIS.

Q: Who is preparing the EIS?

A: The three co-lead agencies, Whatcom County Planning and Development Services (County), Washington State Department of Ecology (Ecology), and the U. S. Army Corps of Engineers (Corps), are preparing the EIS. To avoid duplication, the EIS will meet the requirements of both SEPA and NEPA. The three agencies have hired a consulting firm, CH2M HILL, to assist them. CH2M HILL has assembled specialists on the many different types of impacts the EIS is expected to assess. It is not uncommon for a draft EIS to take two or more years for large and/or complex project proposals.

Q: Why are you releasing information on the scope now?

A: The scope, or extent of evaluation as determined by the co-lead agencies, provides the consultant with the range of elements to be included in the EIS and the geographical extent to which direct, indirect, and cumulative impacts must be evaluated. The scope enables the consultant to begin developing the methods to analyze possible impacts of the proposals, an important step in preparing a draft EIS.

Process**Q: How was the scope determined?**

A: The co-lead agencies considered the comments received during the scoping comment period, conferred with one another, and reviewed the NEPA and SEPA laws and regulations. The joint scope for the EIS reflects the co-lead agencies' combined NEPA and SEPA requirements on the overall assessment of environmental impacts suitable to address each agency's regulatory needs. It is up to each co-lead agency to determine the relevance and weight the information in the EIS will be given in making its respective agency determination. During the development of the draft EIS, additional information or research could affect the extent of analysis for any particular area of study.

Q: How did you take into consideration the extensive public input you received during the scoping comment period?

A: The contractor hired by the co-lead agencies catalogued, tabulated and categorized the nearly 125,000 comments received. Of these, 15,894 comments contained unique messages (Most comments came as form-messages in response to organized comment campaigns). The co-lead agencies reviewed all comments and evaluated summaries that provided topic-by-topic comment assessments. The comments are available via the EIS website: <http://www.eisgatewaypacificwa.gov> . There were a wide range of comments and concerns provided by individuals and entities throughout and outside of Washington state. This scoping input prompted a broad consideration of topics to be studied.

Content of Environmental Review

Q: What effects will be studied for these proposals?

A: Based on the combined needs of the co-lead agencies, the EIS will analyze the proposed projects' direct, indirect and cumulative impacts on the following environmental elements:

Biological/Natural Environment

1. Earth/Geology
 - Geology, soils, topography (includes analysis of erosion/enlargement of land area (accretion) and unique physical features)
 - Coastal areas and shorelines (physical oceanography and coastal processes)
 - Geological hazards
2. Air
 - Air quality
 - Climate and climate change, including greenhouse gases
3. Water
 - Surface water
 - Wetlands
 - Water quality
 - Floods and floodplains
 - Groundwater
 - Water supplies
4. Energy and Natural Resources
 - Wildlife and terrestrial habitat, including migration routes
 - Vegetation communities (forests, etc.)
 - Fish and aquatic habitat, including migration routes
 - Unique species
 - Threatened or endangered species

Built Environment: Social Aspects

1. Land use
 - Land uses, land-use plans, and growth management, including relationship to existing land-use plans and to estimated population
 - Recreation
 - Agricultural and farmlands, including agricultural crops

2. Transportation
 - Vehicular traffic, including transportation systems, traffic patterns, and hazards and safety
 - Waterborne traffic, including transportation systems, traffic patterns, and hazards and safety
 - Rail traffic, including transportation systems, traffic patterns, and hazards and safety
3. Cultural Resources
 - Historic and cultural preservation
4. Tribal treaty rights
5. Aesthetics
 - Light and glare
 - Visual impacts
 - Viewsheds
6. Public services and utilities
 - Services, including police, fire, EMS, maintenance, other governmental services
 - Utilities including electricity, water, sewer, solid waste, other utilities

Built environment: Human aspects

1. Noise and vibration
2. Health and safety
 - Hazards and risks
 - Safety, including public risk
 - Public health
3. Human environment
 - Employment
 - Local tax base
 - Environmental justice

Cumulative Impacts Assessment

The EIS also will provide an assessment of whether measures can be taken to avoid or reduce (mitigate) those environmental impacts.

Q: What is the difference between direct, indirect, and cumulative impacts?

A: After establishing the scope of analysis, the co-lead agencies must analyze the direct, indirect, and cumulative environmental effects (or impacts) of those activities under both SEPA and NEPA. Under NEPA, the Corps analyzes those effects that are subject to Federal control and responsibility if the permit is granted.

The definitions of impacts, according to the U.S. Council of Environmental Quality regulations are:

(a) **Direct effects** are caused by the action and occur at the same time and place.

(b) **Indirect effects** are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

(c) **Cumulative Effects:** The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Q: Will off-site impacts be studied?

A: Yes. Some indirect and cumulative off-site impacts will be studied. The extent will vary based on the element to be studied and impact pathways.

SEPA compared to NEPA

Q: What are the specific scopes unique to SEPA and NEPA regulations?

A: The U.S. Army Corps of Engineers (Corps) implements NEPA consistent with 33 CFR 325, Appendix B – NEPA Implementation Procedures for the Regulatory Program. The Corps only extends its scope of analysis beyond the activities requiring a Department of the Army permit when the Corps has sufficient control and responsibility to warrant review. The Corps is not considering impacts that may occur in association with the overall coal export process such as rail traffic, coal mining, shipping coal beyond the territorial seas and/or burning coal overseas to be the effects of the Corps' action. These activities are beyond the Corps' control and responsibility.

Whatcom County and Ecology implement SEPA in accordance with chapter 197-11 WAC, and must consider any probable, significant, adverse environmental impacts from a proposed project consistent with WAC 197-11-060. Such impacts are subject to review, and possibly mitigation and/or denial if the impacts cannot be mitigated. SEPA does not limit its scope to those aspects within the jurisdiction of the lead agency or agencies, including local or state boundaries. Extent of the SEPA analysis (whether in a checklist to inform a threshold determination or in an EIS) is case-by-case based on facts.

In addition to the other co-lead agencies' scoping requirements, Ecology will require:

- A detailed assessment of rail transportation impacts on communities near the proposed project site and other representative communities in Washington, with a more general analysis of out-of-state rail impacts;
- A general assessment of cargo-ship impacts beyond Washington waters;
- An assessment of how the proposed project would affect human health, including impacts from related rail and vessel transportation in Washington;

- An evaluation of greenhouse gas emissions from terminal operations, rail and vessel traffic, and end-use coal combustion.

Q: What is the combined scope of the EIS?

A: The combined scope reflects the needs of the SEPA and NEPA processes, where they overlap and where they are different. The EIS will disclose the extent to which information in the joint document is for NEPA analysis and/or SEPA analysis only. Each agency may consider issues differently because of their specific regulatory authority and, therefore, will individually determine the relevance and weight to give the information in the EIS. On-site impacts will be studied to satisfy both NEPA and SEPA analyses, as will the environmental impacts of vessel traffic. The SEPA co-lead agencies are additionally directing a study of a statewide effects of rail traffic and related environmental effects. While all elements of the environment will be consistently studied, Ecology is specifically including the transportation (rail and vessel) effects on increased air, noise, greenhouse gas emissions and the relationship of these transportation effects on human health. Lastly, the SEPA co-lead agencies have decided to develop a Health Impact Assessment parallel to and integrated into the draft EIS.

Q: How was the geographic scope determined?

A: The geographic scope, or extent, for impact analyses has been defined based on determinations made by each of the co-lead agencies and input provided by the public, agencies, and Tribes during the scoping period. The geographic extents for the EIS have been established to ensure that adequate analysis is provided to meet the regulatory requirements of all co-lead agencies. It is the responsibility of each co-lead agency to determine what portion of the geographic extent will be relevant in making its respective agency determination.

Q: Does including an environmental element in the scope indicate that the permitting agencies intend to regulate it?

A: No. An EIS is not a permit and it does not directly regulate the proposed project. The intent of the EIS, in terms of inclusion of environmental elements, is to provide to decision-makers information on which to base decisions about regulatory conditions. Merely because an impact or aspect of the proposed project is described in the EIS under a specific environmental element does not mean it will be regulated.

Transportation

Q: What is the extent of the analysis of rail impacts?

A: Based on requirements of SEPA, the joint EIS will study rail transportation impacts using a tiered approach.

- The first tier includes analysis within Washington state. In this tier, direct impacts within the proposed action areas (Whatcom County) and indirect impacts within the state of Washington will be studied. The SEPA co-lead agencies anticipate the studies to identify and conduct analyses for representative conditions in order to describe effects along in-state routes.

- The second tier of analysis will be for areas outside the state (to the point where the extraction of natural resources originates) and include qualitative, or less-detailed, studies that would provide information relevant to out-of-state communities with similar situations along the routes.

Q: What is the extent of the analysis of the marine vessel impacts?

A: As with rail transportation, vessel transportation will be examined using a tiered approach.

- The first tier analysis, for SEPA and NEPA, will include a vessel traffic study for examination of impacts in U. S. territorial waters, which includes a detailed risk analysis to determine the risk of an oil spill, as well as other marine traffic-related issues.
- The second tier analysis, conducted for SEPA only, will include a qualitative assessment for impacts beyond Washington state waters, and will not include detailed analyses.

Greenhouse Gases

Q: Will the EIS analyze greenhouse gases?

A: The co-lead agencies will analyze greenhouse gases differently because of their different regulatory requirements.

- For NEPA, the extent of evaluation will generally be limited to the proposed project site and the potential construction of project site facilities.
- For SEPA, the greenhouse gas emissions resulting from the transportation of the commodities will be calculated. In addition, Ecology will require the greenhouse gas emissions from the end-use of coal, the predominate commodity to be shipped from the facility, to be addressed.

Q: Why are greenhouse gases a concern?

A: Greenhouse gases are a concern because they are considered a pollutant, affect the global climate and contribute to ocean acidification. Climate change includes changes in earth's temperature, wind patterns, precipitation, and intensity and frequency of storms. Emissions from the burning of coal also change the chemistry of our oceans, including Puget Sound, with negative impacts on sea life such as shellfish. In light of the polluting nature of greenhouse gases, local and federal agencies with expertise in air pollution commented during the scoping process that the EIS should assess greenhouse gas emissions from the combustion of coal proposed to be exported from the project.

Q: Does state law allow study outside the borders of the United States, such as the combustion of coal-causing greenhouse gas emissions in Asia?

A: SEPA is broadly worded to require consideration of environmental impacts, and directs agencies to act "to the fullest extent possible" when assessing the environmental impact of a proposal. In addition, SEPA rules direct lead agencies to look beyond their jurisdictional boundaries for environmental impacts that are likely and not merely speculative that could occur as a result of the proposed project.

Q: Is the environmental review for the Gateway Pacific Terminal project being approached differently than for other proposals?

A: No. While not a common practice, the approach of preparing a joint NEPA/SEPA EIS is promoted by U.S. Council of Environmental Quality (CEQ) to avoid unnecessary duplication. The requirements of SEPA and NEPA are being applied to these projects in ways that are consistent with other proposals that have been reviewed by the agencies.

As with all reviews, the agencies look at what is being proposed and, through an initial review, determine the appropriate EIS scope in relation to the potential for significant adverse environmental impacts. In this instance, the extent of analysis is based on what is required under NEPA and SEPA regulations, and what has been learned about the proposed projects so far.

The process for NEPA compliance is consistent with how the Corps has analyzed potential impacts from other bulk facilities in the Corps' jurisdiction in other parts of the country.

With regard to SEPA, Ecology has determined that GPT proposal requires broad environmental review: 1) to be responsive to public comment; 2) because of the expected probable, significant and adverse impacts caused by the scale and nature of the project (e.g., emissions associated with exported coal generates more greenhouse gas pollution than all current sources in Washington State combined); and 3) because state law discourages greenhouse gas pollution and coal power.

Health Assessment, Mine Impacts

Q: Will there be a Health Impact Assessment?

A: Yes. The SEPA co-lead agencies plan to conduct a health impact assessment. The analysis area will focus on the communities near the project site and along transportation corridors. Direct and indirect impacts to human health will be evaluated.

Q: Will the EIS study the environmental effects of the mining operations at the coal mines?

A: No. The proposal is for transportation and storage of dry bulk commodities, not for mining.

Q: Will cumulative impacts be studied?

A: Yes, cumulative impacts will be studied to the extent they are identified in the EIS process. Cumulative impacts could include vessel and rail traffic impacts and human health impacts from similar projects proposed in the state, such as the Millennium Bulk Terminals Longview proposal.

Process, Next Steps, Expected Timeline

Q: What are the next steps in the EIS process?

A: The co-lead agencies will direct CH2M HILL to begin gathering data, conduct studies using the scoping document guidance, and begin writing the draft EIS. The draft EIS will clearly state what

was studied and the source-materials used to produce the document. After the draft EIS is published, the co-lead agencies will seek public comment and conduct public hearings. A Final EIS will be produced after considering comments.

Q: How long will it take to produce a draft EIS?

A: A draft EIS for a proposed project of this size could take two years to complete.

Q: Will the EIS make use of other studies, such as “crowdfunded” research?

A: As part of the EIS process, the consultant team seeks and can utilize unbiased information such as scientific journal articles, studies, papers, etc., that are available during the time the EIS is being prepared. Several independent organizations have stated their intentions to conduct their own independent analyses of the proposed project’s impacts. Some of these studies may be appropriate to reference in the EIS. The co-lead agencies’ analysts will review the methods, validate source data, and determine whether information can be used in the development of an unbiased EIS. No entities other than the co-lead agencies have the statutory responsibility to conduct a rigorous and impartial review of the project. The co-lead agencies reserve the right to not use data or studies that are incomplete, flawed, subjective, or misleading.

Q: Who are the experts on the CH2M HILL team, including subcontractors, and what are their credentials?

A: Now that the co-lead agencies have determined the joint scope, CH2MHILL can assemble its team to address these specific areas. The co-lead agencies selected the CH2MHILL team including 14 subconsultants through a competitive proposal and interview process in April 2012. The consultants have no involvement in the decision making process. The team is an assembly of analysts with expertise to develop an objective and unbiased EIS on behalf of the co-lead agencies to meet the NEPA and SEPA requirements.