

# FAQ on Scope of EIS Studies for Gateway Pacific Terminal/Custer Spur (GPT)

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## 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 SEPA scope of analysis and the NEPA scope of analysis, as well as the geographic extent of evaluation for the Environmental Impact Statements (EIS's) being prepared to evaluate impacts from the combined Pacific International Terminal, Inc. proposed Gateway Pacific Terminal (GPT) project and the BNSF Railway's proposed Custer Spur improvement project. Here are questions and answers about this decision.

## Definitions

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

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 they are likely to be significant. If it is determined that a 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.

**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 projects, the co-lead agencies will issue a draft EIS with a minimum 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: There will be two EIS's prepared, one under NEPA and one under SEPA. The NEPA EIS will be prepared under the direction of the U.S. Army Corps of Engineers (Corps), and the SEPA EIS will be prepared under the direction of the SEPA co-lead agencies, Whatcom County Planning and Development Services (County), and the Washington State Department of Ecology (Ecology). 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 DEIS to take a year or more for large and/or complex projects.

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

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 an EIS. The Corps has determined the scope for the NEPA EIS and the County and Ecology have determined the scope for the SEPA EIS independently.

**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 rules. The separate scope for each EIS reflects each agencies' NEPA or 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's, 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 impacts will be studied for these proposals?**

A: The EIS will analyze the proposed projects' direct, indirect, and cumulative impacts on the following environmental elements:

Environmental Resource/Element	Resource/Element Subcategory	Required for NEPA and / or SEPA Documentation
<b>Biological/Natural Environment</b>		
Earth/Geology	<ul style="list-style-type: none"> <li>• Geology, soils, topography (includes analysis of erosion/enlargement of land area [accretion] and unique physical features)</li> <li>• Geological hazards</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>• Coastal areas and shorelines (physical oceanography and coastal processes)</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
Air	<ul style="list-style-type: none"> <li>• Air quality</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>• Climate and climate change, including greenhouse gases</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
Water	<ul style="list-style-type: none"> <li>• Surface water</li> <li>• Water quality</li> <li>• Floods and floodplains</li> <li>• Groundwater</li> <li>• Water supply</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>• Wetlands</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
Biological Resources	<ul style="list-style-type: none"> <li>• Wildlife and terrestrial habitat, including migration routes</li> <li>• Vegetation communities (forests, etc.)</li> <li>• Unique species</li> <li>• Threatened or endangered species (Endangered Species Act for NEPA)</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>• Fish and aquatic habitat, including migration routes</li> <li>• Unique species</li> <li>• Threatened or endangered species (Endangered Species Act for NEPA)</li> </ul>	<ul style="list-style-type: none"> <li>• Both NEPA and SEPA</li> </ul>

<b>TABLE 6. NEPA/SEPA scope of environmental analyses as defined by the Co-Lead Agencies.</b>		
<b>Environmental Resource/Element</b>	<b>Resource/Element Subcategory</b>	<b>Required for NEPA and / or SEPA Documentation</b>
Energy and Natural Resources	<ul style="list-style-type: none"> <li>Amount required, rate of use, and efficiency</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
<b>Built Environment: Social Aspects</b>		
Land Use	<ul style="list-style-type: none"> <li>Land uses, land use plans, and growth management, including relationship with existing land use plans and to estimated population</li> <li>Recreation</li> <li>Agricultural and farmlands, including agricultural crops</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Transportation	<ul style="list-style-type: none"> <li>Vehicular traffic, including transportation systems, traffic patterns, and hazards and safety</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>Waterborne traffic, including transportation systems, traffic patterns, and hazards and safety</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
	<ul style="list-style-type: none"> <li>Rail traffic, including transportation systems, traffic patterns, and hazards and safety</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Cultural Resources	<ul style="list-style-type: none"> <li>Historic and cultural preservation</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Tribal treaty rights	<ul style="list-style-type: none"> <li>Tribal treaty rights</li> </ul>	<ul style="list-style-type: none"> <li>Only NEPA</li> </ul>
Aesthetics	<ul style="list-style-type: none"> <li>Light and glare</li> <li>Visual impacts</li> <li>Viewsheds</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Public Services and Utilities	<ul style="list-style-type: none"> <li>Services, including police, fire, EMS, maintenance, and other governmental services</li> <li>Utilities, including electricity, water, sewer, solid waste, and other utilities</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
<b>Built Environment: Human Aspects</b>		
Noise and Vibration	<ul style="list-style-type: none"> <li>Noise and vibration</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Health and Safety	<ul style="list-style-type: none"> <li>Hazards and risks</li> <li>Safety, including public risk</li> <li>Public health</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
Socioeconomics	<ul style="list-style-type: none"> <li>Employment</li> <li>Local tax base</li> </ul>	<ul style="list-style-type: none"> <li>NEPA</li> </ul>
	<ul style="list-style-type: none"> <li>Division or disruption to community</li> </ul>	<ul style="list-style-type: none"> <li>NEPA</li> </ul>
Environmental Justice	<ul style="list-style-type: none"> <li>Environmental Justice</li> </ul>	<ul style="list-style-type: none"> <li>NEPA</li> </ul>
<b>Cumulative Analysis</b>		
Cumulative Impacts Assessment	<ul style="list-style-type: none"> <li>Review of other past, present and foreseeable future projects in addition to the incremental proposals' impacts as disclosed in the analysis of each element of the environment</li> </ul>	<ul style="list-style-type: none"> <li>Both NEPA and SEPA</li> </ul>
<b>Health Impact Assessment</b>		

<b>Environmental Resource/Element</b>	<b>Resource/Element Subcategory</b>	<b>Required for NEPA and / or SEPA Documentation</b>
Health Impact Assessment	<ul style="list-style-type: none"> <li>• Division or disruption to community</li> <li>• Impacts on disadvantaged populations</li> <li>• Environmental Justice</li> </ul>	<ul style="list-style-type: none"> <li>• SEPA only</li> </ul>

The EIS will also provide an assessment of whether measures can be taken to avoid or reduce (mitigate) 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 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. Whatcom County and Ecology implement SEPA in accordance with chapter 197-11 WAC. The Corps only extends its scope of analysis beyond the activities requiring an Army permit when that extension is appropriate under existing law, regulation and policy. 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 control and responsibility and/or expertise of the Corps.

Under SEPA, Ecology must consider any probable, significant, adverse environmental impact from a project consistent with WAC 197-11-060. Such impacts are subject to review, and possibly mitigation and/or denial if the impact 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 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 project site and other 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 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: How was the geographic scope determined?**

A: The geographic scope, or extent, for impacts 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 extent for each EIS was established to ensure that adequate analysis is provided to meet the regulatory requirements of each agency. 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 project. The intent of an EIS, in terms of inclusion of environmental elements, is to provide disclosure and information to decision-makers on which to base regulatory conditions. Merely because an impact or aspect of the project is described in an 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 SEPA 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 to describe impacts 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 both 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 the SEPA EIS, 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 the NEPA EIS, the extent of evaluation will generally be limited to the project site and the potential construction of project site facilities. For the SEPA EIS, 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.

**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 project.

## **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 for the SEPA EIS. 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 SEPA EIS or the NEPA 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. Mining impacts are outside of the purview of these EIS's.

**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: Once a contract is signed, 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's. The draft EIS's will clearly state what was studied and the source materials used to produce the document. After the draft EIS's are published, the co-lead agencies will seek public comment and conduct public hearings. Final EIS's will be produced after considering comments.

**Q: How long will it take to produce Draft EIS's?**

A: Draft EIS's for a project of this size could take a year or more to complete.

**Q: Will the EIS's 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's are being prepared. Several independent organizations have stated their intentions to conduct their own independent analyses of the project's impacts. While some of these studies may be appropriate to reference in one or both 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? What are their credentials?**

A: Now that the co-lead agencies have determined the scope, CH2M HILL can assemble its team to address the areas specified by these agencies. 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.