

SEPA RULEMAKING ADVISORY COMMITTEE MEETING

November 5, 2015 – 9:30 AM TO 11:00 AM
WASHINGTON STATE DEPARTMENT OF ECOLOGY
300 Desmond Drive
Lacey, WA 98503

Present (conference call meeting): Anne Aagaard, Paul Crane (City of Everett), Fred Greif (DNR), Erin Hanlon Brown (Ecology), Brenden McFarland (Ecology), Allen Rozema (Skagitians to Preserve Farmland), Fran Sant (Ecology), Dick Settle (DNR), Gerald Steel (Attorney/Environmental Group), Liz Ellis (WQ - Ecology), Darcy Nonemacher (Washington Environmental Council), Mary Rossi (Applied Preservation Technologies), Mark Mazzola (Seattle DOT), Dawn Vyvian (Yakima Nation & Puyallup Tribe)

Objectives for this meeting: *Discuss proposed changes related to structurally deficient bridges and other transportation related exemptions/clarifications as proposed by the City of Seattle*

9:30am: Welcome/ Introductions/Agenda Review (Brenden McFarland)
9:45am: Structurally Deficient Bridge Categorical Exemptions (all)
Review and discussion of draft proposal for City and County Structurally Deficient Bridges.
10:00am: Transportation related exemptions and clarifications (all)
*As proposed by the City of Seattle in 197-11-800 (2)
Corrections to WAC 197-11-960, 197-11-610, and 197-11-830
As proposed by Futurewise,*
10:45am: Public Comment and meeting wrap up
11:00am: Adjourn

Attachments:

- Updated draft rule language for City, Town, and County structurally deficient bridges WAC 197-11-800(27)
- Corrections to the Environmental Checklist WAC 197-11-960 and WAC 197-11-610 and 830
- Updated proposal from the City of Seattle for WAC 197-800(2)
- Proposal from City of Seattle, City of Everett, Futurewise, and Washington Environmental Council for clarification to WAC 197-11-800(23)

Welcome

Brenden McFarland welcomed everyone and reviewed the objectives and related attachments for today's meeting. There were no comments or additions to the agenda.

Structurally Deficient Bridge Categorical Exemptions

- Only change proposed in the language of WAC 197-11-800(27) is for insertion of the word "Town". There were no concerns with this change.
- Gerald Steel expressed concerns with the 2nd and 3rd sentences of 27(c) and suggested that these are deleted. He added that he has concerns with "in the existing right-of-way" because it is unclear how long the right-of-way would need to exist for this to be used and suggested a change to "Pre-existing right-of-way"
 - At our last meeting we discussed moving some items to our definitions section, and these items might be candidate for that section particularly 27(c).

- Regarding the “existing right-of way” Brenden asked if there were transportation officials to speak to this concern.
- Mark spoke to this as the only transportation professional present at the time, explaining different ways that right-of-way can be obtained.
- Brenden noted that 1851 directs us to take the exemptions related to DOT projects in 800(26) and extend that to non-DOT related structurally deficient city, town or county bridge repair and replacement projects.
- Mark asked why (27) is necessary since (26) speaks to the same thing.
 - (26) is specific to the Washington State Department of Transportation.
- Gerald added that there isn’t any reason that the language in (26) couldn’t also be changed since they address the same issue. There are a couple of issues with this – whether we want to take on amending (26) and whether or not this meets the intent of HB 1851.
- Locate list of structurally deficient / functionally obsolete bridges reported to the state for context.
 - Mark offered to look into how structurally deficient is reported at Seattle DOT.

Transportation Related Exemptions and Clarification

City of Seattle proposal for 197-11-800(2)

- Mark made a couple of minor changes from the proposed draft language he sent in October.
 - Rephrased 197-11-800(d)(i) “traffic calming” to “physical measures to reduce motor vehicle traffic speeds or cut through volumes”
 - No additional modifications to 197-11-800(c) or 197-11-800(d)(x)
- Comment from Anne regarding the exemption of one-way streets since this can increase travel speed, noise, air pollution and add risk for pedestrians and cyclists.
- Darcy added that for purposes of SEPA and transparency the checkpoint through SEPA is necessary for changes to one-way streets. They are fine with the other changes proposed by Seattle in 197-11-800(2) with the exception of the one-way or two-way street allocation proposal.
- Mark suggested that if it is unacceptable to leave the one-way/two-way language as is, perhaps there is a way to modify the language so Seattle is still able to use this exemption for transit and traffic flow and alleviate concerns about speed and safety.
- Gerald raised other concerns about one-way/two-way roads or designations for transit and proposed solutions in an email to the group 11/5/15.
- Mark suggested that this speaks to maintaining acceptable flow capacity.
- Brenden raised that the section is minor new construction and while this debate is interesting, it is really outside the scope of this section. Mark provided some examples of how these modifications also involve very minor new construction such as road striping, curb bulbs, etc. which is included.
- Gerald asked for clarification on (x) “and converting underused right of way for public gathering space” – Mark responded that this refers to any place that could be used as a public space for anything other than motor vehicle traffic.
- Darcy asked about process at this point and how we close the loop on unresolved issues. Brenden responded that toward the end we will provide a status or staff report that will likely feed into the concise explanatory statement we need to produce for rulemaking. Fran added that for the next discussion we will produce a write up of the direction we are headed in this section.

- Fred asked for a definition of “cut-through” – Mark responded that someone had forwarded information from the Institute of Traffic Engineers and cut-through was defined as leaving an arterial and traveling instead through neighborhood areas at higher speeds than appropriate.

Clarification and Corrections to 197-11-970 Environmental Checklist

- Alan Rozema introduced interest from the agricultural group for a clarification about proposed impacts to agricultural lands. Ecology will circulate Alan’s proposal to the group. There were no comments at this time.

Change to 197-11-610 – Use of NEPA Documents

- 610(3)(b) – eliminating EA in this section. Group agreed that the typo should be fixed.

Change to 197-11-830 – Department of Natural Resources

- Fred pointed out that there are references in 197-11-830 that are out of date statutes that now have new numbers. The draft of this minor edit was circulated.
- Gerald proposed different language for subsection 8 adding that 79.14.470 should not be added because it does not address leases for mineral prospecting. Additionally, Gerald feels that the statutory language is unclear and has suggested an interpretation of the law in his email sent 11/5/15.
- **Action: DNR will look at the suggested change and provide a response.**

Change to 197-11-800(23) as proposed by Futurewise, WEC, City of Seattle and City of Everett

- Darcy introduced the groups concerns around the outdated language in 197-11-800(23)(b) and sent language to the group related to stormwater and utilities.
- Brenden added that in the last round of rulemaking we updated the diameter from 8” to 12” in the utility exemption section.
- Dawn asked about the existing language to the utility lines and proposed change. Darcy explained the minor technical correction made to clarify this section. Dawn is concerned about this change because of the 12” pipe limit and potential ponds, or wetlands that deal with stormwater and feels as though these tools should be included. Or the language should specify the permit the language comes from.
- Paul raised concerns about the 12” pipe because of different technologies that do not rely on stormwater conveyance to CSOs.
- Additional discussion about these changes would move this from a clarification outside the scope of current rulemaking.
- Clarifications should be limited to the existing language.
- Liz Ellis spoke on behalf of the SERP for the state revolving fund in support of clarification of this exemption. The language in (23) is very vague such as best management practices, water facilities, appurtenances.

Public Comment

Gerald made a comment about the environmental impacts of stormwater ponds and the potential earth disturbance.

Fred added that the intent sounds more narrow in scope than the wording of the exemption under (23)(b) and if the intent is existing right-of-way only, this should be clarified.

Mark added that they are looking for an equivalent in the utilities section to 197-11-800(d)(vii).

Closing Remarks

Fran asked that if there are modification to 800(23) she would like these revisions and proposals by November 16th so we have time to move this forward.

At the November 30th meeting we will be looking at specific modification and proposals for the rule.

Mark will attempt to revise once more the language for other new construction.

Gerald asked that we consider a 2-hour timeframe for our next meeting.

Next meeting: December 8, 2015