

# SEPA RULEMAKING ADVISORY COMMITTEE

December 8, 2015 – 1:30 PM TO 3:00 PM  
WASHINGTON STATE DEPARTMENT OF ECOLOGY  
300 Desmond Drive  
Lacey, WA 98503

**Present:** Charlene Anderson (City of Kent), Paul Crane (City of Everett), Fred Greif (DNR), Erin Hanlon Brown (Ecology), Brenden McFarland (Ecology), Fran Sant (Ecology), Gerald Steel (Attorney/Environmental Group), Mark Mazzola (Seattle DOT), Carol Lee Roalkvam (WSDOT), Bryce Yadon (Futurewise)

## **Objectives for this meeting: Discuss draft proposed rule changes**

- 1:30pm: Welcome/ Introductions/Agenda Review
- 1:40pm: Open discussion of transportation related exemptions and clarifications (all)
- 2:10pm: Open discussion of other proposed rule clarification and changes (all)
- 2:40pm: Time reserved for continuing discussions, if needed
- 3:00pm: Adjourn

Attachments:

- Draft proposed rule language*
- Summary of proposed changes to WAC 197-11*

## **Welcome/ Introductions/Agenda Review**

Fran welcomed everyone and asked if there were any additions to the agenda. There were no additions.

## **Open discussion of transportation related exemptions and clarifications**

Further comments on the proposed language for transportation related exemptions:

800(2)(c)

- No further discussion.

800(2)(d)(i)

- No further discussion – intent was to cover minor neighborhood traffic calming devices. This is still captured with the current language.
- Futurewise concurs with the rewording on this.

800(2)(d)(x)

- Futurewise is still concerned with proposed changes to (x) regarding one-way/two-way designations. Maintains that these should still go through SEPA review rather than be incorporated into the exemptions.
- Question regarding definition of “underused right-of-way”
  - Up to local jurisdiction to define “underused right-of-way” to determine spaces that serve the public better as public space rather than motor vehicle access.
- Brenden reminded everyone that the subsection under discussion falls under the 800(2)(d) which is for “the construction or installation of minor road and street improvements by any agency or private party...”
- Gerald added that 800(d)(x) in a sense is defining minor construction, and added that almost all of the environmental groups participating oppose the designation of roadways. Additionally, Gerald opposes the designation of roadways to transit only under this exemption. He suggests a caveat to the language that conditions these changes to not effect road capacity.
- Mark encouraged the group to be careful how a caveat is defined – for people or for vehicles. SDOT would encourage the definition to be defined for people.
- Carol Lee suggested that we might check in with other local governments about how SEPA is used for operational street proposals. Is this something that triggers SEPA

statewide? Brenden added that this is highly variable statewide, often we see this go through SEPA as part of a planning process. When there is no permit triggered, most local governments just proceed with their work.

- Gerald added that if these changes were specified in an approved transportation plan, that would satisfy his concerns.
- Carol Lee suggested that we talk to our AG about this. If it doesn't need to be captured in the rule, it may be helpful captured in guidance for lead agencies.

#### **Open discussion of other proposed rule clarification and changes**

- 800(26) – correction to heading to “State Transportation Projects”
- 800(27) – City, Town and County structurally deficient bridges. Language in this section as proposed by HB 1851.
  - Gerald had proposed that we eliminate the 2<sup>nd</sup> and 3<sup>rd</sup> sentences in 27(c) as not regulatory language. Ecology paralleled the language in the WA DOT exemptions in 800(26) with a definition of structurally deficient bridges in 27(c).
- 830 – DNR citation corrections made
  - Gerald commented that subsection 8 - 79.14.470 did not address prospecting leases and therefore should be eliminated.
  - Fred responded that this section does refer to “option contracts” which are prospecting leases. Section 79.14.360 provides further clarification.
- 960 – Checklist clarifications
  - Section 8 (h) correct grammatical error;
  - Section 8 (m) Proposed measures to ~~ensure the proposal is compatible with nearby~~ reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any.
  - Section 14 (d) – correct grammatical error.
  - Section 15 (a) – correct grammatical error.

#### **Additions**

- Brenden added that we need to correct the reference to planned actions in the RCW

#### **Further Discussion**

- Gerald wishes to go on record with an objection to 800(d)(x) as it stands. Fran stated that this forum is not an official record.
- Carol Lee asked about why we are striking EA in 610(3)(b). Brenden responded that this is a remnant from the last round of rulemaking. There is not a substantive change here.
- Paul Crane asked when in the future we might be able to address the green stormwater infrastructure that came up in earlier discussions. Brenden responded that it could possibly be included in the scope of the next round of rulemaking (not yet determined) if it is still a point of concern at the time.
- There were no items for further discussion.

#### **Next Steps**

- Draft rule language due December 17<sup>th</sup> to Ecology's rules unit for further analysis.
- Ecology will file our CR 102 following this analysis. When the CR 102 is issued there will be a public hearing on the draft language and an opportunity for comment.
- There will be no further advisory committee meetings.