Attachment D

Project Review Form Preliminary Results from Testing
Issue Paper

Issue 1 – Level of Detail

Issue: Concern that the extensive information required in the new checklist is not needed.

Question: Overall, what level of detail is needed for the SEPA review form? (This is a very broad question with a variety of situations. An important one is listed below. Two others are listed as #5 and #6.)

Requested information in Part C is divided into two groups: a summary of applicable regulations and a summary of other mitigation. Is it important to differentiate between regulation-related mitigation and other mitigation? Should the review form ask for a brief summary of all of the relevant conditions required under the development regulations?

Considerations:
- SEPA is intended to provide agencies with the authority to impose mitigation when there are gaps in regulations.
- SEPA is not intended to duplicate regulations or regulatory processes.
- Agencies are supposed to identify gaps so that they may revise their regulations, when appropriate, to address those gaps.
- The current version of the checklist distinguishes between regulatory requirements and mitigation that is not covered by regulations. That separation facilitates use of SEPA substantive authority and docketing.
- Applicants will not be familiar with all regulations. Generally, they will not be familiar enough with the regulations to understand what applies and doesn't apply. They rely on agencies to tell them that. Implementing agencies are the authority on regulations and codes.
- Information about how regulations would be applied to an activity informs readers (other agencies and citizens) how the project will be regulated. Otherwise readers will not know for sure if any regulations apply and if they do how they will apply.

Examples:
- See the following sections of the draft review form: 3.1.2 and 3.1.3, 3.2.2 and 3.2.3, 4.1.2 and 4.1.3, etc.

Options for resolving:
1. Leave as is.
   Applicants should be familiar with and understand the regulations that apply and be able to distinguish between those requirements and other mitigative actions they propose.
2. Change the format to something similar to Attachment A. Applicant and agency would have the opportunity to insert information. The source of the information (applicant or agency) would be differentiated (this would be easy to do with electronic versions).
3. Delete these questions altogether.

Issue 2 – Information Provider

Issue: In some cases, applicants may not be able to answer the questions because they don't know or have access to the information.

Question: Who should be required to provide the needed information?

Considerations:

- Applicants are most familiar with their proposal and know a lot about the site.
- Agencies are most familiar with the regulations that would apply to the proposal and may have general information about the site.
- Many applicants don't know about regulations and don't understand regulatory and/or SEPA/GMA terms.
- Agencies will ultimately be expected to provide complete and accurate information, as requested by the checklist, whether they require the applicant to provide it or not.
- Applicants often understand how their proposal will change the environment (e.g. remove vegetation, change water quality, change storm water runoff) but they do not necessarily understand whether that change will affect wildlife, aquatic resources, air quality, etc.
- Applicants tend to answer some questions with very general information. This is similar to answers provided in the existing checklist. Examples include: 1) for summarizing regulations- "will comply with local and state codes" , 2) for describing mitigation- "will use techniques approved by county to minimize impacts", and 3) for describing traffic generation- "truck traffic during regular work hours".
- DFW and DNR have information about the location of populations or individuals of state threatened and priority species in their data bases but do not make that information available to the public (there is a risk that someone might try to eliminate the population on or near their site). This information would be available to agencies but not applicants.

Examples:

- See the draft project review form questions: 3.1.2, 3.2.2, 4.1.2, 4.2.2, etc.
- WA Species of Concern – an applicant can't find out what priority species are on or near their site
- Natural Heritage System at DNR is not available to citizens.
- For 7.2.1, Historical Resources, a Category 1 audit must be conducted to know if a site is eligible.

Options for resolving:

1. Expect the applicant to answer all questions. Leave the questions for the applicant as is and rely on the lead agency to either require the applicant to complete all of the sections and/or the agency to add any missing information they feel is relevant.
2. Same as #1 except, expect the lead agency to be the primary provider of information regarding regulations and impacts.
   a. Change the format to something similar to Attachment B, Alternate Format 1 for Part C.
      - Agencies could be allowed to reference their staff report in lieu of filling in the agency only portions.

b. Change the format to something similar to Attachment B, Alternative Format 1 for Part C, and give applicants the option to fill in the questions in the agency only portion.

3. Same as #1 except, expect the agency to be the primary provider of information regarding regulations but continue to require the applicant to provide information about impacts and appropriate mitigation. (Attachment B, Alternative Format 2 for Part C)
4. Change the questions regarding "briefly summarizing regulations". For example change 4.3.2 to "Will the proposal comply with local and state adopted stormwater and erosion control requirements?"

Issue 3- GMA Critical Areas

Issue: Applicants are not familiar with the term "GMA critical areas." They see the examples of critical areas (wetlands, aquifer recharge areas) and focus on those words. If they have a wetland on site, they assume they should answer yes to 3.1 and check the box for wetlands.

Question: Should GMA critical area questions be handled differently?

Considerations:

- Providing a separate question about GMA critical areas educates readers about GMA terminology and places more emphasis on "decisions already made".
- There is more pressure on the applicant to become familiar with the local Critical Areas Ordinance.
- Users often don't read guidance or headings. Many will likely not differentiate between a wetland that meets the local definition for a GMA critical area and a wetland that does not meet the definition. They will describe all wetlands the first time they see the word "wetland".

Examples

- Section 3.1 in the draft review form asks about wetlands; applicants are checking the box and providing the information in Section 3.1 regardless of whether the wetland qualifies as an adopted GMA critical area. Then when the applicant gets to Section 4.1, they are confused as to why there is another question about wetlands.
- The same confusion would likely hold true for "geologic hazard area", frequently flood area", "streams, rivers, lakes, or other surface waters", etc. asked about in Section 3.1.

Options for resolving :

1. Leave generally as is because: 1) There will be a learning curve and 2) the important information will be disclosed, it just may not be in quite the right place.
2. Provide minor clarification and/or guidance by adding to the form and/or guidance document such as:
   i. Add words such as "GMA defined critical areas" to 3.1 in the project review form.
   ii. Provide more guidance explaining what a critical area is, by GMA definition, and provide direction on how they can collect the information in the guidance document.
3. Change by eliminating 3.1 and add a question to 4.1, 4.2, 4.5, 5.1, 6.1 that asks the applicant if any of the areas identified fit the local Critical Areas criteria. To work well, local applicable critical areas would probably need to be added to the appropriate question. This would require the local lead agency to insert their critical area names in the appropriate places of the question.
4. Change the same as #3. except require the agency to identify whether the areas fit the local Critical Areas criteria.

Issue 4 - Forest Practices

Issue: Local government designations under the GMA do not affect and do not have jurisdiction on nonconversion forest practices activities. See the examples discussed below.

Question: Should forest practices proposals, not involving conversions, be handled differently than other proposals on the checklist? Should the applicant be required to identify CAOs in an area where they do not apply?

Considerations:

- One intent of the statewide forest practices act and rules is to have a single set of rules governing forest practice activities and not to subject forest practice activities/applicants to multiple sets of rules.
- The exemption for a forest practices cannot be eliminated in a county/city when in a critical area. (Cannot be added to the list in WAC 197-11-905 which establishes a process for overturning an existing categorical exemption due to occurance in a "critical area" designated by local government under the GMA.)
- The additional information requested Section 3.1 is onerous in light of the lack of jurisdiction and thus the lack of usefulness in providing mitigation.
- Nonconversion forest practices do not result in impacts to the natural resource lands as designated by local government under GMA since there is no change in use and the long term forest management activity is consistent with this designation.
- Information about impacts will be captured by other questions.
- The checklist is looking at the impacts from the total proposal. If there are impacts from timber harvesting, they should be identified along with all other impacts within the area.
- If FPAs are allowed to alter the format or eliminate questions, there will be requests to alter the checklist for other unique situations

Examples:

- Section B.2.1.1 boxes identifies critical areas and natural resource lands.
- C.3.1. Critical areas specifically asks about areas regulated by a local Critical Areas Ordinance
- C.3.2 Natural resource lands. If the land use is not changing, is this section of questions helpful?

Options for resolving:

1) Leave as is.
2) Change by exempting nonconversion forest practices activities from the sections listed above. (e.g. could be in rule and/or in guidance)
   - This fix may not be seen by an applicant, resulting in the applicant trying to fill out Critical Area questions anyway
3) Change by separating the checklist for forest practices once the review reaches Part C Impacts and Mitigation. (e.g. add a question before 3.0 asking if the project is a Forest Practice without conversion. If the answer is yes, the applicant would go to 4.1)
4) Change by allowing individual jurisdictions to delete or add questions and asking a question at the beginning of the checklist for the agency to answer: "Are there any unique situations

about this proposal that caused you to eliminate or add questions? If yes, please explain." Local jurisdictions would make the final determination regarding the deletion or addition of any questions.

- This option addresses other potential situations where N/A might actually be appropriate.
- Requires the local jurisdiction to take the time to identify each situation
  - Some jurisdictions might delete 3.0 for forest practices and others might not
  - Other relevant questions in the document might be deleted
  - Creates some inconsistency and may confuse applicants, agencies, and the public
  - Agencies would need to remember to think of the information needs of all reviewers (other agencies and citizens) when considering pieces to eliminate.

Issue 5 - Level of Detail Needed (regarding plants and animals)

Issue: This version of the project review form requests a brief description of <u>all</u> plants, animals, and habitats.

Question: Is this level of detail useful?

Considerations:

- Section 5.2 requests information about all plants and animals on or near the project.
- In almost all cases, projects will change vegetation and habitats that will also change animal populations.

Options for resolving:

- Leave as is.
- Change by adding a section in Part B to: a) collect a general description of amount and types of vegetation on the site (example below) and b) provide a checklist for animals present on the site similar, to but updated from, the existing SEPA checklist. Also change question *C.5.2.1 Plants and Animals (not threatened or endangered)* by eliminating the request to describe the species or their habitat and the request to explain how they were identified.

Example from New York's Environmental Assessment Form
for collecting vegetation/habitat information

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ acres

Issue 6 – Level of Detail Needed (regarding project components not yet defined)

Issue: Some portions of a project are contracted out or not yet fully known.

Question: Should the applicant be required to describe how those "contracted out" portions will be conducted and what the potential impacts would be of that activity? If the lead agency identified and/or applied conditions for those impacts, should and/or would the applicant be held accountable?

Considerations:

- WAC 197-11-080 provides guidance regarding how to analyze impacts when information is absent and the information is essential to a reasoned choice among alternatives.
- WAC 197-11-792 includes mitigation as a form of alternative.
- The checklist is intended to assist lead agencies to determine if significant adverse impacts would occur.
- Contracted portions may have significant impacts that should be reviewed as part of the entire proposal.

Examples:

- 2.2.3 Site Changes. When construction of a project is planned for a separate as-yet-to-be-identified contractor, the source of fill and/or disposal sites for excavation or demolition may not be known because they are left to the contractor to determine.
- 2.2.4 Transportation. For traffic generation, the construction of the project may be planned to be contracted out and the applicant does not know what the contractor will decide for the size and schedule for transport or supply trucks; the work schedule for employees and construction noise, etc.

Options for resolving:

1. Applicants are allowed to leave blank. No one analyzes impacts from those portions of the project that will be contracted out.
2. When the applicant doesn't know, they are asked to describe a reasonable worst case scenario.
3. Agencies set a standard assuming reasonable worst case; (e.g. "If information on the trucks is not available, please use the following guidance to describe a worst case scenario.")
4. The applicant does not have to describe but the agency is expected to consider a worst case scenario and consider the impacts.

Issue 7 – Format

Issue: In parts A and B, applicants have identified that there is not enough space to write everything they think they should provide and that the double column formatting is confusing.

Question:
Should the form be expanded to allow a single column format and room to add explanations?

Considerations:
- Linear projects require additional space to provide information about a multiple number of sites.
- Applicants would like the opportunity to explain unique situations and/or their answer to a specific question
- Applicants generally move from top to bottom when filling out a document. When there is more than one column, they get concerned that they might miss some questions. Since the pattern is changed mid page, the reader is distracted by trying to figure out the format.
- Stakeholders may judge the difficulty of the form by the number of pages.
- An electronic version would allow multiple lines to be inserted and would automatically move the applicant through the questions so that nothing is missed and any repeat information could be asked once and inserted into multiple locations.
- A hard copy version is not as easy to design to allow for longer answers.

Examples:
- Sections 1.6 and 1.7 are perfect examples of too little space for a linear project or a project involving a few sites. For a linear project, it is likely the applicant would refer the reader to a map and a reduced amount of information on legal description and site address.
- Part B, Sections 2.1 and 2.2 mix the format of moving the reader from top to bottom, from left to right, then again from top to bottom.
- Applicants have expressed that they would like to provide the explanation for 2.3.1 right after the question rather than attach a separate page.
- Section 2.2.3, applicants have indicated they would like to explain what is happening with grading, filling, and excavation rather than giving cubic yard amounts, fill source and disposal sites because they don't have the numbers or locations (overlap with Issue 6).
- Because the variety of projects and level of design will vary when the form is filled out, it is difficult to design a form that will work for all situations. Flexibility for answers could help the form function for a greater variety of situations but may make it easier to leave out needed information.

Option:
For additional space:
- an electronic version can be designed to allow applicants to add lines
- a hard copy can direct applicants to attach a piece of paper with additional information; a check box could be added to each main section that would be checked if additional information is provided on a separate sheet.

Project Review Form Preliminary Results from Testing
Attachment A

6.2 Air Quality

	6.2.1	Will the project have air emissions, other than those related to construction or traffic? **If "yes,"** please describe the type and amount of air emission involved. Answer 6.2.2 and 6.2.3: _____ _____
❑ No Go to 6.3	❑ Yes ⇒	

6.2.2 Describe any remaining potential impacts, that may result in a public health hazard, cause area air quality to fall below established standards, contribute to haze, or contribute a disproportionate share of cumulative increases in regional air emissions. Briefly describe proposed measures to avoid, minimize, and/or monitor those impacts, including those measures that are required through local, state and/or federal regulations:

Potential Adverse Impacts	Mitigation

Agency comments on 6.2: ❑ Concur ❑ Do not concur ❑ Concur with additions/edits

Project Review Form Preliminary Results from Testing
Attachment B
Alternate Format 1 for Part C

6.2 Air Quality

	6.2.1	Will the project have air emissions, other than those related to construction or traffic?
❑ No Go to 6.3	❑ Yes ⇒	**If "yes,"** please describe the type and amount of air emission involved and answer 6.2.2: _____ _____ _____ _____

6.2.2 Briefly summarize measures that will be taken to avoid, minimize, and/or monitor the air emissions described in 6.2.1.: _____ _____ _____

Agency use only:

6.2.3 Briefly summarize how the project will comply with local, state and/or federal regulations pertaining to such air emissions:_____ _____ _____ _____

6.2.4 Describe any remaining potential impacts, that may result in a public health hazard, cause area air quality to fall below established standards, contribute to haze, or contribute a disproportionate share of cumulative increases in regional air emissions, and proposed mitigation measures to address those impacts:

Potential Adverse Impacts	Proposed Mitigation

Agency comments on 6.2: ❑ Concur ❑ Do not concur ❑ Concur with additions/edits

Attachment B continued

Alternative Format 2 for Part C

6.2 Air Quality

❑ No Go to 6.3	❑ Yes ⇒	6.2.1 Will the project have air emissions, other than those related to construction or traffic? **If "yes,"** please describe the type and amount of air emission involved and answer 6.2.2: _____ _____

6.2.2 Briefly summarize impacts that may result in a public health hazard, cause area air quality to fall below established standards, contribute to haze, or contribute a disproportionate share of cumulative increases in regional air emissions and summarize measures that will be taken to avoid, minimize, and/or monitor the air emissions described in 6.2.1.: _____ _____ _____

Agency use only:

6.2.3 Briefly summarize how the project will comply with local, state and/or federal regulations pertaining to such air emissions:_____ _____ _____

6.2.4 Describe any remaining potential impacts, that may result in a public health hazard, cause area air quality to fall below established standards, contribute to haze, or contribute a disproportionate, and proposed mitigation measures to address those impacts:

Potential Adverse Impacts	Proposed Mitigations

Agency comments on 6.2: ❑ Concur ❑ Do not concur ❑ Concur with additions/edits