



Oct. 3, 2013

Washington State Department of Ecology
PO Box 47703
Olympia, WA 98504-7600

Attn: Fran Sant

RE: 2013 Rulemaking for Chapter 197-11 WAC, SEPA Rules

Dear Ms. Sant,

Thank you for the opportunity to comment on the proposed rule changes to Chapter 197-11 WAC, which implements Washington's State Environmental Policy Act (SEPA). Avista respectfully submits our comments for consideration on the Sept. 10, 2013, Discussion Draft.

As you are aware, the 2012 Legislature (2ESSB 6406, Section 301) directed Ecology to update SEPA rules in light of the increased environmental protections in place under Chapter 36.70A RCW, Chapter 90.58 RCW and other laws. The Growth Management Act (GMA), the Shoreline Management Act, and many other federal and state laws involve processes and requirements that can be redundant and repetitive for permit applicants and permitting jurisdictions. The effort to eliminate regulatory duplication and to identify appropriate SEPA exemptions while maintaining environmental protection is worthwhile. Listed below are our comments related to the Sept. 10 draft rule.

Lands covered by water: Projects that are within lands covered by water, that would otherwise be exempt, should be considered exempt under WAC 197-11-800(1), (2), (3), (6), and (23). The Shorelines Management Act (and implementing programs), GMA critical areas ordinances (pertaining to wetlands, floodplains, etc.), U.S. Army Corps Nationwide/404 permits, stormwater construction permits, and Hydraulic Permit Approvals provide substantial and adequate review of these projects and for the opportunity to ensure appropriate conditions for environmental protection. The Department should consider whether projects subject to NEPA should be exempt from SEPA requirements

Repair, remodeling and maintenance activities - Clarify in-water maintenance work, dredging, bulkheads: In-water maintenance work, dredging, and bulkheads under WAC 197-11-800(3) should be considered exempt from SEPA for reasons similar to those stated above for projects on lands covered by water. There are multiple regulatory requirements for these projects, including but not limited to: Shorelines

Management Act, U.S. Army Corps Nationwide/Section 404, WDFW HPA, GMA critical areas ordinances, and stormwater permits that adequately address the environmental concerns for projects in the water.

We support Ecology's proposal to exempt some dredging activities, however the 50-cubic-yard exemption is arbitrary and insufficient for common and routine maintenance projects at hydroelectric facilities. Sediment must be moved periodically when repairs and maintenance of the facility are needed. This work doesn't increase sediment loading or impact the ultimate distribution of sediments, as typically, such sediments would be redistributed naturally during periods of high flow. We propose a broader exemption to this section that recognizes the work performed for routine hydroelectric facility maintenance.

Utilities. Avista suggests edits to the utility section as indicated below.

Proposed Rule Amendments

WAC 197-11-800(23)

23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.

(c) ~~All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.~~ All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; the overbuilding of existing distribution systems with transmission lines of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

New – Exception to exemptions - Cultural Resources. Projects that involve potential impacts to cultural resources are adequately addressed through existing requirements. Overlaying additional SEPA review and compliance could, in fact, set up conflicts between different authorities in addition to being duplicative. For example, work undertaken under our FERC license and related requirements for our hydroelectric facilities and properties along the Spokane River are subject to a comprehensive cultural resource management plan developed with agencies, tribes and other stakeholders.

Each individual project is subject to its requirements and further review by the State Historic Preservation Office and/or Tribal Historic Preservation Office. We agree with the agency's decision to not include exceptions to the exemption on cultural resources. We also oppose additional planning level requirements that will only serve to cause unnecessary delays and costs without any evidence of enhanced resource protection.

Once again, we appreciate the opportunity to comment on this draft rule. Please feel free to contact Robin Bekkedahl at (509) 495-8657 with any questions you may have regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "John Rothlin". The signature is written in a cursive, flowing style.

John Rothlin
Manager of Washington State Government Relations
Avista Corporation