

## Sant, Fran (ECY)

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**From:** Karen Walter [KWalter@muckleshoot.nsn.us]  
**Sent:** Thursday, October 03, 2013 4:46 PM  
**To:** Sant, Fran (ECY)  
**Cc:** Daryl Williams; John Marvin  
**Subject:** RE: SEPA draft rules for Discussion on 9-17-2013

**Categories:** Top Priority

Fran,  
I have reviewed the draft SEPA rule changes and offer the following comments:

1. WAC 197-11-504 Availability and cost of environmental documents. Are documents cited by reference or cited as the response to a particular environmental checklist considered a SEPA document that needs to be made available to entities, including affected Indian Tribes that are required to receive SEPA notices? We have great difficulty with some jurisdictions actually getting the technical documents, reports and site plans for projects undergoing SEPA review that were cited in the checklist. You will often see the response "see critical areas report" instead of an actual response regarding water features on a site and potential impacts to them. We would like to get this problem rectified so we can receive SEPA documents timely and response within the set timeframes with any concerns we have. SEPA is often the first time we get notice of a project; therefore, our first opportunity to identify concerns with a project that will likely come up again in permitting if not resolved sooner.
2. WAC 197-11-508 SEPA register. Is the intent of these changes to replace notification requirements to affected Indian Tribes? We have difficulty getting adequate noticing now and I am concerned that we will have to follow the SEPA register daily to find out about projects that would otherwise be noticed to use directly. Also, the SEPA register is just a one line item for each project with no linkage to the actual project documents which limits its usefulness for actual review.
3. WAC 197-11-756 Lands Covered by water. Please note that there is much disagreement about whether wetlands, ditches and grass-lined swales were created out of non wetland sites or are actually channelized former streams and wetlands.
4. WAC 197-11-800(2)(vii)- The Categorical Exemption proposed here (page 17) to include catch basins and culverts may be okay if these projects do not involve streams or wetlands. Otherwise, these types of activities should not be exempt from SEPA review.
5. WAC 197-11-800(3)- The Categorical Exemption proposed for repair, remodeling, and maintenance activities that includes utilities, equipment, and potentially transportation facilities (page 19) ignores the consideration that these areas usually result in a cleared landscape that is maintained with grasses, low-growing shrubs, and often times invasive plants. Where they occur near streams and wetlands, the result is reduced buffer functions. By allowing the maintenance of these activities to be exempt, there is ready means to require mitigation for reduced stream and wetland buffer functions.
6. WAC 197-11-800(3)(a)- The Categorical Exemption proposed here (page 19) regarding dredging seems too high if one considers it as an allowed activity without consideration of frequency. We are trying to get some projects that require constant dredging to be re-evaluated to see if a different approach will solve the problem when the dredging occurs on fish-bearing waters. Most of this dredging occurs without any mitigation, can result in a loss of fish habitat, create fish passage barriers and has no end in site because it is how the flooding or conveyance problem has traditionally been addressed. There should be some limitation on how many times this dredging can occur before SEPA review is triggered again.

We appreciate the opportunity to review these rule changes. Please let me know if you have any questions about these comments.

Thank you,  
Karen Walter

Watersheds and Land Use Team Leader

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-----Original Message-----

From: Fran Sant [mailto:fsan461@ECY.WA.GOV]  
Sent: Thursday, September 12, 2013 12:00 PM  
To: ECOLOGY-SEPA-UPDATES@LISTSERV.WA.GOV  
Subject: SEPA Rulemaking Advisory Committee Mtg on 9-17 and rulemaking schedule

Dear SEPA Listserv,

Meeting materials for the SEPA Rulemaking Advisory Committee meeting on September 17th, 2013 have been posted online at:  
<http://www.ecy.wa.gov/programs/sea/sepa/rulemaking/AdvisoryCommittee.html>

This is not our formal proposed draft rule, it is a discussion draft. Comments on the draft status report dated 9-10-2013 and the discussion draft of 197-11 WAC are due by October 3, 2013.

I would recommend reviewing the status report first. Then if interested in a topic, review the corresponding section of discussion draft rule. Also note that the discussion draft rule is the whole rule including sections not changed. It is over 200 pages long - so don't press "print" for the whole document unless that is what you intend.

Here is our current rulemaking schedule:

Sept 17: Advisory Committee Meeting to introduce discussion draft

Oct 3: Comments due on Discussion Draft of Rule

Oct 10: Comments sent out/posted

Oct 17: Advisory Committee Meeting - discuss rule and comments

Oct 24: Working on next iteration of Draft Rule language

Oct 30 (Wed): Submit Draft Rule language to Rules Unit

End of Dec 2013: Target date for start of public comment period on Draft Rule

Please contact me if you have any questions.

Thanks and have a great day.

Fran Sant  
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SEPA Rule Coordinator  
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