

Conducting SEPA for Nonproject Actions Results of Feasibility Testing

December 2001

Washington State Department of Ecology
Environmental Coordination Section

Table of Contents

SUMMARY OF FINDINGS

INTRODUCTION

Background
Need
Objectives

PROPOSED NONPROJECT INITIATIVE

Nonproject Review Process
The Nonproject Review Form (NPRF)
Elements of the Nonproject Review Form

FEASIBILITY TESTING – PILOTS

Selection of the Pilots
Summary of the Pilots
Table 1: Summary of Pilot Testing
Constraints/Conditions
Pilot Evaluation Process
Conclusions
Concerns Arising from Pilot Process

SUMMARY OF RESULTS FROM PILOT QUESTIONNAIRES

Table 2: Summary of the Effectiveness of Each NPRF Element
Effectiveness by NPRF Element
Table 3: Pilot Ratings of How the Form/Process Met NPI Objectives
Use of Results
Process Changes
NPRF Changes

APPENDIX A

Nonproject Review Form and Process
Questionnaire for Pilot Volunteers

APPENDIX B

Tested Nonproject Review Form

APPENDIX C

Selected Comments from Pilot Participants

SUMMARY OF FINDINGS

The following are some of the likely consequences if the process and NPRF are adopted as amendments to Chapter 197-11 WAC:

- Improved environmental analysis for nonproject actions with moderate impacts
- Reduction of time spent on environmental analysis after proposal is developed
- Improvements in public/agency opportunity to provide meaningful input
- Greater integration of planning and environmental analysis
- Additional resource expenditure commensurate with improvements in environmental analysis
- Adjustment period needed for agencies/public

INTRODUCTION

The Department of Ecology (Ecology) is initiating changes to the environmental review process of nonproject actions under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The amendments will include a new tool to guide and document the requirements for all nonproject actions. The new Nonproject Review Form (NPRF) will replace the existing checklist and Supplemental Sheet for Nonproject actions, WAC 197-11-960, as they apply to nonproject actions. Also, the SEPA Rules (Chapter 197-11 WAC) will be amended to include changes in the process for conducting environmental analysis using the NPRF. As part of this effort, the new form and process were tested under the provisions of the Administrative Procedures Act. This report summarizes the effort and the results from the testing.

Background

SEPA requires each state and local government agency to consider the likely environmental consequences of a proposal before taking an action (making a decision). This is particularly important for nonproject actions that will govern the development of multiple future projects and for regulations that contain standards controlling use or modification of the environment. Thus, a systematic approach for integrating environmental review with planning could further identify aspects for evaluation and encourage better quality plans, policies and regulations. In turn, the more detailed the review at the planning phase, the more streamlined the review at the project stage.

Need

The current environmental checklist and the process used to conduct nonproject environmental analysis are widely recognized as being severely deficient in both

promoting environmental values to be considered in decision making, as well as the types of information required. Among the problems are:

- Many lead agencies conducting environmental analysis under SEPA do not begin the analysis until a draft plan or policy is prepared. By this time, interested parties have bought into the draft, compromises have been made, and unless the environmental impacts are egregious, significant changes are difficult or impossible. Thus SEPA becomes an "add-on" that results in added costs and delay with few environmental improvements.
- The existing tool used to make threshold determinations for most nonproject proposals is the project environmental checklist plus a supplemental sheet for nonproject actions. There appears to be a universal opinion that the existing checklist does not work well for nonproject proposals. A common comment from planners and others when asked about how they use the checklist is; "We simply write N.A. (not applicable) for most or all of the questions about impacts to the environment."

There is an opportunity to remedy these problems by implementing better processes, procedures, and guidance that will meaningfully incorporate the consideration of environmental values, impacts and alternative analysis into the decision making process.

Objectives

In developing the Nonproject Initiative (NPI) the following objectives were identified. These objectives are consistent with both the intent of the State Environmental Policy Act and the State's existing implementing rules. They are:

1. Ensure that environmental values are considered and incorporated into proposals for nonproject actions.
2. Provide decision-makers with an understanding of the environmental consequences of decisions on nonproject actions.
3. Improve public involvement and input opportunities.
4. Reduce costs and time by avoiding duplication and achieving early integration of SEPA and the development of a proposal.
5. Implement an environmental review process to help formulate objectives and alternatives.
6. Provide appropriate environmental analysis of actions that direct, encourage, or enable future "on the ground" activities (project actions).

PROPOSED NONPROJECT INITIATIVE

A new process and nonproject environmental review form (NPRF), "checklist", were designed to meet the above objectives. This path is consistent with existing literature that indicates that environmental analysis of plans, programs, policies and regulations is a crucial element in the systematic evaluation of the relationships between nonproject actions and the environmental impacts from projects. *Additionally, it is essential that*

review procedures ensure that environmental values are integrated into the proposal at the onset and throughout planning.

Nonproject Review Process

An iterative process was developed to assist agencies in integrating SEPA review and analysis - from the initial step of identifying a problem and developing a goal; through comparing the affected environment with baseline conditions; to the final adoption or amendment of a policy, plan or program. The process is also designed for early and continued involvement with stakeholders and experts during the development of the nonproject proposal. For complex proposals, this may involve:

1. Identifying problem, opportunity, goals.
2. Soliciting public, agency and other interested parties' input.
3. Identifying and evaluating impacts from key issues, decision and alternative development strategies when considering critical pathways in the decision-making process.
4. Ensuring that the alternative strategies and preliminary decisions remain consistent with the objectives, or, if necessary re-evaluate the objectives.
5. Final environmental review is complete when one or more alternatives to meet the proposal's goal have been developed, all areas of environmental concern and other key issues have been assessed, and mitigation has been identified.

Documenting the technical, legal and economic information (although not required by SEPA) in conjunction with developing the proposal identifies possible conflicts early on, thus minimizing time delays and additional costs for supporting preliminary decisions. As more information and specificity is developed, the analysis is revised to reflect the changes and to add any reasonable alternatives and impacts

The Nonproject Review Form (NPRF)

The purpose of the NPRF is as a tool throughout the development of a nonproject proposal. It provides a vehicle to document and collate the thought processes and assessments of the key issues, alternative strategies, and predicted impacts associated with achieving the objectives. In fact, the form is built around three review areas to encourage a change towards a higher quality in environmental review analyses.

- **Background:** Nonproject identification, need and objectives, existing information and overall strategy.
- **Analysis:** Identification of affected environment, and evaluation of key issues, preliminary decisions, and alternatives to avoid or reduce impacts, and
- **Implementation:** Review for consistency and follow-up actions

While including the essentials for a formal SEPA document, the NPRF is designed to become the vehicle for constructing a level of environmental analysis appropriate for various nonproject action types - from routine to complex. Thus, no matter how broad or

narrow, simple or diverse the potential impacts from the nonproject proposal, the impact assessment will be at an appropriate level for use by planners, decision-makers, the public and other interested parties.

Elements of the Nonproject Review Form

The form is structured to systematically and concisely document existing environmental problems, environmental protection objectives relevant to the nonproject action, and significant environmental impacts that are likely to arise from the implementation of the proposal. Furthermore, these general requirements were supplemented by additional elements that aim at integrating environmental considerations into decision making; enabling officials to consider the expected impacts when making choices between alternatives, and to overcome some of the limitations of project-level environmental impact assessment, e.g. cumulative impacts. The NPRF is divided into the following sections:

- **Background:** To identify the proposal, its proponents, and other basic information.
- **Need and Objectives:** To encourage the lead agency to focus on the problem to be addressed for which the nonproject action is being developed (beyond legal requirements) and to clearly identify the intended goals.
- **Existing Documentation:** To prevent duplication by determining what related environmental analysis has already been completed.
- **Alternative Approaches:** To identify and consider various approaches to achieving the objective(s).
- **Public and Agency Involvement:** To identify and determine means of involving agencies and other stakeholders, and to document the process.
- **Existing Environment and Broad Impacts:** To provide a baseline upon which to determine the potential impacts that are likely to occur as a result of a nonproject proposal, and to provide a framework for the types and degree of detail that should be in the impact analysis.
- **Key Issues:** To analyze and document the environmental considerations and potential impacts from decisions made throughout the development of a proposal.
- **Total Proposal Evaluation:** To ensure that the key issues analyses adequately cover the environmental impacts when considered as a whole proposal.
- **Consistency:** To ensure that the implementation of the proposal would not conflict with other applicable laws and rules.
- **Unavoidable Impacts and Impacts To Be Addressed Later:** To identify unavoidable impacts and where gaps remain in the environmental analysis that will need to be addressed prior to project actions.
- **Monitoring and Follow-Up:** To ensure that mitigation and implementation will be effective in minimizing adverse impacts and/or to be able to identify future problems and necessary changes.

FEASIBILITY TESTING – PILOTS

Selection of the Pilots

Rather than attempting to impose an untested process on lead agencies, Ecology chose to use pilot projects to test the feasibility of the rule changes related to nonproject environmental review by applying provisions of the Administrative Procedures Act (RCW 34.050.313). The pilot projects tested were:

- Limited to state and local governmental agencies volunteering to test the new process and procedures.
- Designed to reflect a variety of agencies and nonproject actions.

Prior to beginning the pilot testing, a Memorandum of Understanding (MOU) or other agreement mechanism setting forth the terms and conditions of the pilot were prepared and signed by Ecology and the volunteer agency. These MOU's include:

- Provisions for public notice.
- Completion dates mutually agreed on by Ecology and the volunteering agency.
- Provisions for withdrawing from the pilot testing at the request of the volunteering agency.
- A process for periodic reporting designed around the particular proposal.
- A description of provisions of the SEPA Rules that were waived for volunteers.

Because of the Office of Community Trade and Economic Development's (CTED) role in the Growth Management Act (GMA: RCW 36.70A), Ecology's SEPA staff collaborated with them in soliciting nonproject proposals for testing. Nonproject proposals were chosen that covered a range of proposal complexity, geographical attributes, and size of jurisdiction, to provide a broad combination of environmental and humanizing elements to the feasibility testing. When selecting the pilots to test the process and analysis, effort was made to select a continuum of plans/policies from different areas of the state, containing key environmental issues, as well as economic, social, technical and legal issues, that would have to be considered throughout the proposal's development.

Summary of the Pilots

City of Sultan – The Industrial Park Master Plan is intended to define public and private investment strategies necessary to transform approximately 300 acres of Economic Development and Highway Oriented zoned property into an efficient, attractive, and productive center of industrial and commercial businesses. The MOU was for a 10-month

duration, expiring March 30, 2001. The City determined after completing three iterations of the NPRF that the proposal was likely to have significant adverse impacts on the environment. Consequently a determination of significance was issued and an integrated Master Plan/environmental impact statement is being prepared and no further iterations of the NPRF were produced.

City of Chelan – The intent of updating the transportation element of the city’s comprehensive plan was to integrate current information on levels of service for both proposed and existing collector and arterial roads. The update outlines goals and policies to address motorized and non-motorized transportation needs over the next 20 years and uses the existing plan as a template. The MOU was for an 8-month duration, initially expiring April 30, 2001. An extension was granted because of delays in obtaining funding. The City subsequently decided to postpone the development of the transportation element and to combine it with an update of other comprehensive plan elements. Consequently, the City withdrew from the pilot process after completing two iterations of the NPRF.

City of Lynnwood – The proposal was a 5-year review and update of the city’s comprehensive plan and considered dividing certain elements into smaller focused elements (e.g., extracting cultural/historic resources from the Parks/Recreation element). The city also considered creating new elements in the plan such as an Economic Element and an Implementation Element. As state law requires consistency between the plan and City’s zoning map, zoning adjustments will also be made based on decisions during the plan update process. The MOU was for an 8-month duration, expiring February 28, 2001. After completing five iterations of the NPRF the City determined that the proposal would have likely significant adverse impacts to the environment, but that these impacts had been analyzed in the EIS for the original comprehensive plan. Therefore, the final iteration of the NPRF was issued as an addendum to the City’s 1995 Comprehensive Plan EIS.

Adams County – The intent of revising the County’s comprehensive plan was to help foster future economic development opportunities in providing a more stable economic base in the county such as, providing livable wages for residents, and an adequate tax base for the functions of government. The County determined that updating the comprehensive plan would occur in two phases: the first phase would include the eastern portion of the county, and the second phase (occurring in late 2001) would consider the Panhandle area of the county. The MOU covered the first phase and was for an 8-month duration, expiring April 30, 2001. A 4-month extension was subsequently granted. The County determined after going through four iterations of the NPRF that the proposal would have likely significant adverse impacts to the environment. The proposed action iteration of the NPRF was issued as a draft EIS and is now undergoing review.

Ecology’s Floodplain Management rule amendments – The intent of the rule amendments was to adopt assessment procedures and criteria (as described in ESHB-2934, subsections 3 & 4) relating to the substantial repair, replacement, reconstruction, rebuilding or improvements of residential structures within Washington State’s

floodways as defined in Chapter 86.10 RCW. Instead of an MOU the provisions were formalized through an internal memorandum that was placed on file. There have been delays in the development of the proposed action and a draft rule has not yet been filed with the State Code Reviser. Ecology has completed four iterations of the NPRF. When or prior to the filing of the draft rule a threshold determination using the existing SEPA process will need to be made since no extension of the pilot was requested.

Department of Natural Resource’s (DNR) Landscape Management Plan – The Larch landscape plan was intended to assess the conditions and management directions within and around DNR-managed lands in the area, and present DNR’s specific vision for the area’s future forests. The landscape plan was also intended to protect the resources using geographically based objectives compatible with the agency’s vision, strategies, and the timeframe for achieving objectives. The MOU was for an 8-month duration, however, DNR decided to terminate the MOU prematurely given management directives. One iteration of the NPRF was prepared and reviewed.

Note: In addition to the pilots described, several "informal" pilots were carried out. These pilots used the NPRF or a variation in the development of a proposed action. Since no SEPA procedures were waived they also had to comply with all current Rule provisions.

Table 1: Summary of Pilot Testing

Pilot Agency	Triggers*	Initial Iteration (staff)	Scoping Iteration	Interim Iteration	Proposed Action Iteration	Environmental Document
Sultan	Task Force/ Public Meetings	Yes	Yes	2 (public)	No	Integrated EIS
Chelan	Not determined	Yes (2)	No	No	No	Withdrawn
Lynnwood	Public Meeting	Yes	Yes	3 (staff)	Yes	Adoption of previous EIS & issuance of addendum (NPRF)
Adams Co.	Public Meetings/ Task Force	Yes	Yes	2 (Public)	Yes	Issuance of NPRF EIS

Ecology	Notice of Intent/ Task Force	Yes	No	3 (staff)	No	Pending (Pilot terminated)
DNR	Public Meetings	Yes	No	No	No	Withdrawn

** The "Triggers" column indicates if a scoping iteration would have been triggered under the NPI and what the trigger would have been. Because of timing the scoping iteration may not have been related to these activities.*

Constraints/Conditions

In reviewing conclusions from the pilot testing some caveats need to be placed on the information used to revise the process and NPRF. Once the SEPA Rule amendments are adopted, agencies implementing the SEPA environmental review process for nonproject actions will be operating under somewhat different conditions than those of the pilots. Some of the conditions that were more unique to the pilots were:

- Most pilots did not initiate the NPI at the point of goal or objective identification
- Detailed written guidance was not made available
- More one on one consultation occurred between Ecology and the volunteer jurisdiction than would normally be expected
- A greater amount of time and resources was spent by volunteer jurisdiction in developing the responses than might normally be expected

For example, ideally the new form and process would be initiated at the point when the lead agency has a goal or objective and before any substantive work has begun in terms of analysis or developing alternatives. The majority of the pilot agencies initiated the testing of the NPI after various degrees of preliminary work, and agency or public involvement. Nevertheless, this did not deter those pilots from moving from one planning phase to another or to finalizing their proposal when testing the process and NPRF concurrently with decision making. Pilots implementing the testing process in midstream of proposal development also indicated they were able to adjust their in-house administrative processes to fit the test system.

Development of the NPI is based on similar objectives, principles, and procedures identified in RCW 43.21C and also include methods invoked by planners, managers, and administrators when developing nonproject proposals. The organization of these criteria into an effective "standard" environmental evaluation tool for the analysis of predicted impacts and tailoring the tool to provide practical, achievable, and quality environmental review were areas to be evaluated using the pilot testing approach.

However, for Ecology to be able to obtain unbiased feedback on the proposed process while at the same time minimizing the interference with the established processes of the volunteer jurisdictions detailed written guidance as to the proper use and interpretation was not made available. Ecology's observation is that such guidance will be needed since the first time responses to the NPRF questions by the pilots do not adequately identify objectives and previously conducted environmental analysis.

Since lead agencies were volunteers, communications between the pilot agencies and Ecology was necessary throughout the NPI. As a result more one-on-one consultation and guidance occurred than would be expected if the process and form were to be adopted as a statewide rule. Nevertheless, Ecology's observations from these encounters were heavily considered when developing and revising the SEPA nonproject regulatory language and environmental review process. The immediate feedback was very valuable when making improvements in the areas of organization, sufficiency of details, and relevancy to the NPI.

Additionally, communications with the volunteers on a regular basis, ranging from bi-weekly to monthly, led to a greater amount of time and resources spent in developing the responses to the NPRF questions and iterations of the NPRF than was expected in many cases. This occurred because of interest and dedication of the volunteer jurisdictions to improve the existing system as well as the lack of specific guidance. However, this effort is anticipated to assist in providing better guidance, including the potential of using some of the pilot responses as examples or prototypes since these deliverables indicated a change towards better quality environmental review.

Pilot Evaluation Process

An evaluation of the feasibility testing was based on the following input.

- ***Initial Interviews*** – Prior to the signing of an MOU, SEPA staff met with lead agency personnel to discuss the overall process, expectations and the nonproject proposal that would be tested. Suggestions from lead agencies representatives were noted and comprised a part of the total analysis of the NPI.
- ***Interim Reports*** – Interim reports were evaluated throughout the process. These reports were in a variety of forms, including written reports, NPRF iterations, discussions with lead agencies or consultants.
- ***Technical and Public Meetings*** – Comments received during meetings with the Rule Advisory Committee, technical committees, public meetings, including planning commission and Council meetings, were noted and were incorporated into the findings and conclusions.
- ***Questionnaires*** – Key lead agency staff and consultants were provided a questionnaire to solicit their comments regarding the NPRF and process (See Appendix A).
- ***Final Reports*** - Final written reports were received from Lynnwood, Sultan (consultant), and Adams County. In addition, final exit interviews were conducted

with Adams County, Lynnwood, Ecology, Buckley (informal), and the City of Chelan.

Conclusions

The following general conclusions were made as a result of the pilot process:

- **Quality of Environmental Analysis:** The tested process and form resulted in environmental analysis superior to the existing checklist and process. Results from the pilots, particularly those that did not result in a new EIS, indicate the environmental considerations received greater attention and better impact analysis than they would have under the existing system. At a minimum, the NPRF asks questions more relevant to nonproject actions and requires some thought throughout the proposal as to how the environment may be affected. This is in contrast from the existing procedures that allow and encourage delaying analysis until a complete proposal has been developed.
- **Need for Guidance:** Ecology recognizes, and is supported by pilot responses, that substantial guidance and technical assistance will be necessary if there are amendments similar to those being tested.
- **Need for Flexibility:** This was a consensus from the pilot testing as well as others informally using the process and environmental review form. Since the NPRF is proposed for all nonproject actions it needs to be flexible in terms of how it can be used, particularly for "minor" actions and those that clearly will require an EIS. For example, even though the iterative process is an inherent feature of the process, for routine/benign nonproject actions multiple iterations of the NPRF may be unnecessary.
- **Multiple Iterations:** The number of NPRF iterations required to arrive at the appropriate level of analysis is dependent upon the nature of the proposal and the adequacy of existing documents that may be adopted or incorporated by reference. Beyond the minimum number required for public circulation (one to two), the number of additional iterations (internal or public) is at the discretion of the lead agency.
- **NPRF Sections:** The usefulness of various sections of the NPRF, from a lead agency perspective, was largely dependent upon their view of SEPA – its purpose and value.
- **Lead Agencies:** Agencies with smaller staffs generally gave higher ratings of the NPRF than those with more resources.
- **Agency SEPA Procedures:** The adoption of NPI changes would require jurisdictions to review their existing internal SEPA procedures to ensure consistency with the Rule revisions. Under RCW 43.21C.120 agencies are given one hundred and eighty days to amend their procedures. Essentially, there are three options for lead agencies.
 1. Substantive amend agency SEPA procedures
 2. Minimally change procedures by adopting appropriate provision of Chapter 197-11 WAC by reference.

3. Do nothing within the 180-day period, at which time the changes to Chapter 197-11 WAC will take effect for the jurisdiction.
 - **Timing:** The further into the planning process that the NPRF is introduced the less effective it is in achieving integrated analysis, particularly in terms of identifying and analyzing alternatives. One of the objectives on the NPI is to reduce the time that is often added to a nonproject proposal by initiating SEPA after a draft action is proposed. By integrating SEPA into the development process this add-on can be eliminated.
 - **Encourage Public Involvement:** While inconclusive, pilot responses indicated that the proposed process and NPRF did not significantly enhance public involvement. A portion of this may be attributed to unfamiliarity of the process and use of the NPRF by the public and agency personnel. There is an ingrained practice of commenting only after a proposal or alternatives are developed and a DNS or draft EIS is issued. One of the concerns expressed was that multiple iterations of the NPRF might confuse the public, or they would be likely to wait until the last iteration before commenting. It is obvious that outreach and education would still be needed to get commenting agencies and the public engaged at the front end of planning.
 - **Organizational Separations:** When the environmental analysis and the planning are not prepared by the same staff, i.e., separate governmental units or consultants close coordination is required if the process is to be fully integrated.

Concerns Arising from Pilot Process

The evaluation process identified a number of concerns. The following summarized these concerns and, when appropriate, indicates modifications proposed to address them.

- **Analysis of "Minor" Nonproject Proposals:** A concern expressed by some pilots (and others) is that the process and NPRF would require substantially more analysis required at present for nonproject actions particularly for those that clearly do not have any significant adverse environmental impacts.

For certain nonproject proposals it is reasonable to assume, based on the objective, that the eventual proposed action will not be likely to have significant adverse environmental impacts. For example, a change limiting green light signage for traffic safety reasons. Pilot agencies would prefer to eliminate these types of nonproject actions from having to use the NPRF and from having to make a threshold determination. Even though the proposed rule language would simplify the process to a level roughly comparable to what now exists, it would not eliminate this requirement.

The most obvious way to address this issue would be to change the categorical exemptions after a thorough analysis of actions and criteria. Adding this to the NPI, however, in addition to adding substantial time and effort, is beyond the

scope of the Inquiry of Intent (CR-101). If this is to be done it should be undertaken as a separate rule amendment effort.

- ***Additional Resource Hits:*** There was a concern expressed that the process would require multiple iterations, mailings, etc., and these would create cost burdens. The proposed rule changes would clarify that a lead agency would have the discretion for additional iterations above a minimum. For "minor" nonproject actions, or where existing documents are adopted to satisfy SEPA, only one NPRF iteration would be required. For others, where the impacts were not readily discernable, a minimum of two NPRF iterations would be mandatory.
- ***Requirement for Additional Analysis:*** Concern was expressed that the form and process would require additional analysis over and above that currently required by SEPA. The proposed form and process do not change the substantive requirements for environmental analysis under SEPA. SEPA currently requires a level of analysis appropriate for the proposed action, including consideration of direct, indirect and cumulative impacts. Unfortunately, it is commonly recognized that the existing system does not provide a format or process to ensure that the appropriate level of analysis is actually done.

If an appropriate level of analysis as required by SEPA, were being conducted and documented under the existing rules, the proposed changes should result in decreased costs and time because:

- By integrating the proposal development process with the environmental analysis, i.e., documenting the thought process, the need to re-constitute the analysis at the end of the process would be eliminated, thus reducing time and cost.
- The NPRF structure and questions geared to nonproject actions should make the analysis more efficient.

For those actions that would otherwise, under existing rules, not result in an appropriate level of analysis, the NPI is expected to result in added costs commensurate with the increased level of analysis. Since a primary objective of the NPI is to obtain better and more complete analysis, the question here should be whether or not the analysis obtained is commensurate with the benefits.

Long- range benefits from better up-front environmental analysis are impossible to quantify. However, the following are illustrative of some of the potential benefits.

- Less time and resources at the project action level
- Less time spent at the end of the planning process (SEPA as an add-on)
- Reduced environmental impact-i.e., decisions more protective of the environment.

- **Potential Public Confusion Caused by Multiple Opportunities to Comment:** The issue was raised as to whether or not the iterative process would cause confusion to the public and other reviewers, specifically:
 - It is currently common practice for reviewers to comment separately on the plan as it is developed and on the environmental impacts after the plan is proposed. While the process would encourage comment throughout the process, adjustments and education would be necessary to convey the idea that the scoping iteration is the first public opportunity and interim opportunities would be forthcoming. Even if people waited until the end, it would not differ significantly from the current situation other than they would be commenting on both the environmental analysis and the proposed action.
 - Would the use of multiple iterations of the same document cause confusion? This could initially be a problem. Once reviewing public and agencies adjust to the process any confusion should be ameliorated. In addition, the rule language being considered includes clarification that an interim iteration could be in the form of an attachment or addendum, as opposed to a complete NPRF.

SUMMARY OF RESULTS FROM PILOT QUESTIONNAIRES

Table 2: Summary of the Effectiveness of Each NPRF Element

Effectiveness by NPRF Element * <small>(Based on ratings from one to five, with five being the most effective)</small>	Adams County	City of Sultan	City of Lynnwood	Ecology	City of Chelan	Average
Overall	4	3.8	3.3	2.8	4.0	3.6
Need and Objectives	4	3	2	3	4	3.2
Existing Documentation	4.5	3.5	3	2.5	3	3.3
Alternative Approaches	4.3	2.7	2.6	2.3	2.7	2.9
Existing Environment/Broad impacts	4	3	4	3	4.3	3.7
Key Issues	4	3.1	3.6	2.9	4.3	3.6
Total Proposal	5	3	3	2	5	3.6

Consistency	4	3	2	3	4	3.2
Monitoring	4	3	4	3	4	3.6
Average	4.2	3.1	3.1	2.7	3.9	3.4

**Shaded areas are those with 3.2 or greater.*

Table 3: Pilot Ratings of How the Form/Process Met NPI Objectives

OBJECTIVE (Scale of 1 to 5 – 5 highest)*	Adams County	Sultan**	Lynnwood	Ecology	Chelan**	Buckley***	Average
Ensure consideration of environmental values	4.3	3.8	3.8	2.4	4.0	3.2	3.6
Provide decision makers with understanding of impacts	2.5	1.0	3.5	2.5	3.0	4.0	2.8
Improve public involvement	2.5	1.0	3.5	2.5	3.0	4.0	2.8
Formulate objectives and alternatives	4.5	2.5	2.7	2.4	2.5	3.0	2.9
Provide nonproject/project nexus	4.0	3.5	4.0	2.5	4.5	2.8	3.6
Average	3.6	2.4	3.5	2.5		3.4	3.1

**Shaded areas are those with 3.2 or greater*

***Evaluation by consultants*

**** Not a formal pilot*

Use of Results

The results from the feasibility testing are being used in conjunction with input from "informal" pilots, research and stakeholders when analyzing and modifying both the form and the process.

Rule language is being drafted and incorporated into WAC 197-11. Significant changes and clarifications from the tested process and NPRF that resulted from the evaluation include consideration of:

Process Changes

- Provision for a Determination of Significance to be issued with the first NPRF iteration. If this option is chosen the lead agency may then use an integrated environmental/nonproject document, a "traditional" environmental impact statement, or a NPRF format or the environmental impact statement.
- Provision to allow lead agencies to determine the number of iterations between the initial "scoping" iteration and the iteration that accompanies the proposal to decision makers.
- Clarification that for routine/benign nonproject actions one iteration of the NPRF may suffice.
- Elimination of the provision for a petition for a NPRF.

NPRF Changes (See appendix B for Tested NPRF)

- The lowest average regarding the effectiveness of the elements was those related to alternative approaches. Subsequently, this element has been rewritten to focus more on assumptions and constraints, i.e., to assist the preparer to describe the sideboards of the proposal.
- Revising the first several questions so that they can be used as a fact sheet, thus not having to duplicate paper work.
- Adding a check box to identify the type of NPRF iteration, date and preparer.
- Adding a question regarding ongoing or planned studies relevant to the nonproject proposal.
- Removing the direction that Section's 11 & 12 should not be answered until a proposal (preferred alternative) has been developed.
- Organizing the NPRF into three parts, Background, Environmental Analysis and Implementation.
- Clarifying that areas of controversy and concern may be limited to those with environmental aspects.
- Reduction in sections to minimize the perception of duplication.
- Recombination to lessen the perceived emphasis on public involvement.
- Detail added to related documentation so it can more readily be incorporated by reference.

APPENDIX A

NONPROJECT REVIEW FORM AND PROCESS

Questionnaire for Pilot Volunteers

A: On a scale of 1 to 5, with 5 being the best, please rate how well the format and wording succeeded in achieving each of the following:

1. Fostering deliberations on how existing regulations, plans, etc. might help achieve objectives.
2. Fostering the integration of the planning process and the environmental analysis.
3. Encouraging consideration of cumulative impacts.
4. Encouraging consideration and cross-referencing of historical information, studies and other documents.
5. Facilitating stakeholders, such as other agencies and concerned citizens, in understanding the purpose and requirements of the nonproject analysis.
6. Developing alternative choices that incorporate environmental values.
7. Evaluating impacts of preliminary decisions, including non-environmental impacts.
8. Assessing environmental impacts concurrently with preliminary planning.
9. Elaborating in sufficient detail the evaluation of environmental impacts arising from implementing the nonproject action.

B: In terms of your particular nonproject pilot, rate how well you think your responses accomplished the following:

1. Providing relevant information when making choices between alternatives.
2. Providing relevant information regarding criteria, targets or indicators for evaluating impacts.
3. Providing relevant information for predicting potential impacts (indirect/cumulative) at an appropriate level of detail.
4. Providing information that clearly explained the methodology of the environmental analysis.
5. Providing information that will be useful at the next nonproject level or at the project level.
6. Providing sufficient information for the public, other agencies and staff to identify key environmental concerns at the scoping phase.
7. Providing a systematic methodology to predict impact and evaluate its significance.
8. Encouraging the establishment of clear objectives.
9. Identifying and explaining alternative approaches to achieving objectives.

C: Please rate from highest (9) to lowest (1), the value of the material developed/provided in each of the following NPRF themes.

1. Description of the proposal, purpose/need, and objectives
2. Description of the affected environment.
3. Identification of key issues
4. Identification of areas of environmental concern or controversy.
5. Evaluating environmental impacts
6. Identifying mitigation
7. Identifying monitoring/performance measures
8. Describing public involvement strategy
9. Documenting historical environmental analysis

D: Regarding the process (scoping, iterations, public involvement, etc) rate the following, 5 being the best.

1. The triggers and their use to start the environmental analysis process.
2. Consistency with other internal processes and policies.
3. Meeting the proposed procedural requirements within existing agency resources.
4. Effective involvement of the public and other jurisdictions.
5. Overall understandability of the process.
6. Applicability to a major action (one requiring an EIS).
7. Applicability to minor nonproject actions.
8. Usefulness to various levels of decision-makers.
9. Efficiency and effectiveness of public disclosure processes.

APPENDIX B

TESTED NONPROJECT REVIEW FORM

(The following is the NPRF provided to the pilots for testing. Changes have been suggested or made as a result of the testing and design process. A revised draft is available on Ecology's website. <http://www.ecy.wa.gov/programs/sea/sepa/NPRF-10-16.htm>)

NONPROJECT REVIEW FORM

1) Background

- a. Agency and contact name, address, telephone, fax, email
- b. Designated responsible official
- c. Name of proposal, if any, **and brief description.**

Guidance #1(d): This response should name the jurisdictional coverage and that portion of the jurisdiction where the nonproject action will apply. Example, the nonproject action will apply statewide to all areas designated as being under the jurisdiction of the Shoreline Management Act. This includes all lakes over 20 acres, all streams with an annual mean flow of 20cfs and all saltwater areas, plus 200 feet from ordinary high water marks any associated wetlands.

- d. Describe the jurisdiction or area where the proposal is applicable.

Guidance #1(e): Briefly describe the law, ordinance, chapter, etc. that allows the lead agency to undertake and approve the anticipated action, or cite relevant language. Example, Chapter XXX RCW states: The Department of Ecology is authorized and directed to promulgate regulations to carry out the provisions of this act.

- e. What is the legal authority or mandate for the proposal?

2. Need and Objectives

Guidance #2(a): This response should address both the immediate problem and, if appropriate, how it relates to a broader need. Example, the problem may be to provide additional low income housing while the need is to provide suitable housing for all income levels within the jurisdictions.

- a. Describe the problem to be addressed and the need for the action.

Guidance #2(b): Response reflects the specific objectives that the nonproject action will try to achieve. Example, the objection is to provide suitable low-income housing for 200 families.

- b. Describe the primary objective(s) of the proposal.
- c. Are there any other objectives? If so, describe.

Guidance #2(d): This question is placed early in the form to stimulate thought and assist in identifying key issues that may arise later in the process. It also provides an opportunity for the public and others to identify concerns that they may have.

- d. What are the current known or anticipated key environmental issues or areas of controversy or concern?

Guidance #3: Lead agencies are encouraged to identify and use previous environmental documents to avoid duplication. Therefore, the response should be specific both as to the documents (SEPA and/or NEPA) covering the topic and those impacts that have been adequately analyzed.

3. Previous Documentation

- a. Identify and briefly describe any similar or related plan, regulation, policy, etc. currently in effect governing this geographic area and that contains the means to further the primary objective.
- b. *Is this proposal likely to result in an amendment to or replacement of such existing regulation, policy or plan? Briefly describe.*
- c. *List any environmental documents (SEPA or NEPA) that have been prepared for items identified in 3a above. Identify the type of document, lead agency, and issue date.*
- d. *Do the SEPA documents in 3c adequately analyze any or all of the impacts from the alternatives being considered? (**Impacts with previous adequate analysis need not be re-analyzed, but should be incorporated by reference into the NPRF.**)*

Guidance #4: Many legal authorizations offer flexibility in how the policy may be achieved. Example, a law may authorize or direct the promulgation of rules, but it may be within an agency's prerogative to accomplish certain objectives through a nonregulatory approach such as guidance or educational/outreach.

4. Alternative Approaches

- a. Briefly describe any legal or other mandate that requires a particular approach?

- b. If there is no mandated approach, what type of approaches could reasonably achieve the objectives?
- c. Why was the approach presented in the proposal selected?

Guidance #5: The responses to these questions may be expected to change with various iteration, as new stakeholders are identified, the proposed actions becomes better defined and public awareness is increased.

5. Public, Agency and Tribal Involvement

- a. Who are the known primary stakeholders?
- b. What other jurisdictions are involved and for what reason?
- c. What types of processes will be used for soliciting, evaluating, and documenting input from stakeholders, agencies, tribes and the public?
- d. **If different from above, briefly describe the processes used in addressing the public's and other interested parties concerns and comments?**

Guidance #6: This response should describe those attributes of the area(s) likely to be affected by "on the ground" activities. The specificity will vary depending on both the nature of the anticipated nonproject action as well as the jurisdictional constraints. A nonproject action covering all contaminated sites should broadly describe whether or not most or many sites are in urban areas, near water bodies, in industrially developed areas, etc. A nonproject action for a one hundred-acre rezone will contain considerably greater detail-to the degree that the reader can visualize the area.

6. Existing Environment

- a. Generally describe the existing environmental landscapes (i.e., status or quality of ecosystem) likely to be affected if the proposal is implemented. Include a description of the existing environment where resulting "on the ground" activities may occur and adjacent areas and facilities likely to be impacted. The following should be included, as appropriate:
 - Primary physical features
 - Development level and infrastructure
 - Percent impervious surfaces (approximate)
 - Unique features, including historic and cultural sites, potential or existing critical areas, resource lands
 - Endangered or Threatened Species in or near the area

7. Broad Impacts

- a. In meeting the primary objective (identified in 2b of this form) is it likely that the non-project action will direct an agency to develop or construct projects? Describe.

- b. In meeting the primary objective is it likely that the non-project action will encourage physical changes to the natural or built environment? Describe.
- c. *What is the location (geographic area) where changes will be directed or encouraged ? Include the area directly affected, as well as adjacent or other areas where changes will be indirectly encouraged.*
- d. *Will this action constrain certain activities or development, but not preclude all activities or developments? Briefly describe.*

Guidance #8: In the development of a nonproject proposal, preliminary decisions are made as to what direction or alternatives will best meet the objective(s). This section documents those issues, analyze the environmental consequences, and describes alternatives (particular to those with lesser adverse environmental impacts). For the selected preliminary decision, mitigation should be reviewed as to whether or not it is consistent with the objective(s). Documentation of the rationale such as, economics or constrained by existing law, for not considering other alternatives should be provided.

8. Key issues/questions, alternatives, impacts and mitigation.

Definition: *Key issues/questions are those for which the solution may limit the range of alternatives or commit the agency to take a particular direction and that could have adverse impacts to the environment.*

- a. *Identify key issue/question # 1. Include a brief statement of why this is a key issue/question.*
- b. *Identify alternative solutions.*
- 1. *How would each alternative solution likely direct, encourage or enable:*
 - o *New Development?*
 - o *Redevelopment?*
 - o *Changes in land use?*
 - o *Changes in density of use?*
 - o *Changes in management practices?*
- 2. *What are the likely impacts from the changes?*
- 3. *What are potential mitigation measures for these impacts?*
- 4. *Will the intent of the proposal still be met if these impacts occur?*
- c. *What preliminary decision, if any, was made regarding this key issue?*
- d. *Which alternatives will be carried forward for further analysis?*
- e. *For those alternatives not carried forward please describe why not?*
- f. *Key issue/question #2, 3,.....Repeat above questions for each key issue.*
- g.

**THE REMAINDER OF THIS FORM IS EXPECTED TO BE
FILLED OUT AND COMPLETED AT THE FINAL STAGES OF
THE PROCESS.**

Guidance #9: Because of analysis of individual key issues will occur over time, there may be relationships between the preliminary decisions that could result in adverse impacts. Prior to the issuance of a draft proposal a review should be conducted and any such impacts be analyzed.

9. Total Proposal Evaluation

If there is a preferred alternative (draft proposal) or alternative packages, describe any additional impacts and mitigation (over and above those addressed in key issue analysis) when considering the total proposal.

10. Consistency of the proposal with other plans, policies and laws.

Definition: *Consistency means that implementing the proposal would not result in conflicting requirements between the proposal and other applicable laws and rules you (internal) or other agencies (external) implement.*

a. Internal consistency

- 1. Is the proposal internally consistent with your agency's previously adopted or ongoing plans and regulations?*
- 2. If there are internal inconsistencies, how does the proposal deal with them? Identify any strategies or ideas for resolving inconsistencies with existing, and /or, anticipated future laws, rules, or plans.*

b. External consistency

- 1. Is the proposal consistent with adopted or ongoing plans and regulations of adjacent jurisdictions and/or other agencies, if applicable?*
- 2. If there are external inconsistencies, how does the proposal deal with them? Identify any strategies or ideas for resolving inconsistencies with existing, and /or, anticipated future laws, rules, or plans.*

11. Unavoidable impacts and impacts to be addressed later.

- a. Identify what impacts have been left to be addressed at the project level (i.e., thresholds which trigger further environmental analysis at the project level).*
- b. For GMA actions, what impacts from the proposal have been designated as acceptable under chapter 36.70A RCW?*

12) Monitoring and Follow-up

- a. How will the completion of and compliance with mitigation measures be monitored and enforced? Who will do the tracking, how will it be done, etc.?*
- b. How will the impacts of the proposal be measured in relation to any benchmarks, performance standards and/or thresholds identified in the proposal?*
- c. What other non-project actions will be necessary to achieve the objectives of this action?*

APPENDIX C

SELECTED COMMENTS FROM PILOT PARTICIPANTS

Following are selected quotes from pilot participants. Quotes were received at various points throughout the process and do not imply an endorsement or rejection of the effort.

- "After a few minor adjustments, I believe we succeeded in developing a product that was far superior to the standard checklist in assessing the impacts of the proposed changes to our Comprehensive Plan." (Hough–Lynnwood)
- No longer will the typical responses for a checklist be the seemingly cavalier "N/A". The repeated review process, conceivably, may improve planned outcomes. The multiple iterations for review should provide ample opportunity to revise thinking, decisions, and preferred alternative when tackling the environmental analysis for nonproject actions. In addition, the new framework for conducting the analysis, as well as the planning process, is apt to yield various improvements at the tail end of the process, as well as along the way. Overall, the new format and sequence of actions contained within the pilot project are steps in the right direction for enhancing environmental review." (Caputo-Adams County)
- "Staff has a better grasp of potential outcomes, specifically stated along the way in writing, thereby assuring the ability to revisit the various thought processes, as needed. It should also be helpful to future staff to follow the project path by reading the SEPA document in the future." (Caputo-Adams County)
- "This is far better than the existing checklist" (Osborn – City of Chelan)
- Staff has a better grasp of potential outcomes, specifically stated along the way in writing, thereby assuring the ability to revisit the various thought processes, as needed. It should also be helpful to future staff to follow the project path by reading the SEPA document in the future." (Caputo – Adams County)
- We found that the non-project review process can be quite lengthy and staff time intensive. This was due largely to our unfamiliarity with the new process and the need to feel our way through. We'd suggest that, if a proposal is complex or large in scale, that the jurisdiction decide as early as possible whether to follow the established EIS process or the non-project review process. (Hough – City of Lynnwood)
- Considering the wide variety of nonproject possibilities, the format of the NPRF should allow some flexibility so that it can be adjusted as needed to fit the particular application. (Hough – City of Lynnwood)

- Most of the significant planning work (e.g. the generation of alternatives, the evaluation of potential significant environmental impacts and work by citizens committees and planning bodies needs to be done prior to the threshold determination. (Hough – City of Lynnwood)