

Agenda Item: 5
RESOLUTION NO. 7**Staff Contact: David Kalberer**
Phone No.: 684-1409**FUTURE ACTION:**

Approve Resolution No. 7 adopting interim rules and procedures to implement the Washington State Environmental Policy Act (SEPA). This resolution would do the following:

- Adopt the appropriate RCW and WAC by reference
- Designate a SEPA "Responsible Official"
- Modify the SEPA requirements to fit the RTA's needs
- Allow the RTA to modify this resolution as needed

Issue for resolution: The proposed resolution appoints the RTA Executive Director as the SEPA "Responsible Official". Until such time the RTA names an Executive Director, an interim appointment needs to be made.

DISCUSSION:

The Regional Transit Authority (RTA) is recognized as an "agency" under SEPA requirements. This requires the RTA to adopt its own rules and procedures for implementing the provisions of SEPA. As a new agency, the RTA has 180 days from its creation to adopt such rules. In any case, the rules and procedures should be in place before the RTA proceeds with any environmental work.

The RTA has already taken action to proceed with project-level planning, including environmental assessment work, for the South Corridor Commuter Rail project. This suggests that the RTA should adopt its SEPA rules and procedures in November in order to proceed with "scoping" the environmental issues for that project.

The SEPA requires 15-day public notice of the RTA's intention to adopt SEPA procedures.

Other specific provisions in the resolution:

- The procedures describe the appeals process, including the use of a hearing examiner.
- The procedures define "staff" to include employees of the RTA and staff members of other agencies assigned to work on RTA issues by interlocal agreement.
- The procedures allow the RTA to charge for environmental documents.

BUDGET ISSUES:

Adoption of SEPA rules and procedures does not in itself constitute a budget impact.

REGIONAL TRANSIT AUTHORITY

RESOLUTION NO. 7

A RESOLUTION of the Board of the Regional Transit Authority for the Pierce, King and Snohomish Counties region authorizing adoption of interim rules and procedures to implement the Washington State Environmental Policy Act.

WHEREAS, pursuant to Chapters 81.104 and 81.112 RCW, the Regional Transit Authority ("RTA"), is responsible for finalizing and implementing a system and financing plan for high capacity transportation within the RTA's service area; and

WHEREAS, the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, and implementing statewide regulations, Chapter 197-11 WAC ("state rules"), set forth an environmental policy for Washington state that requires the RTA to consider and, where appropriate, mitigate the environmental impacts of various programs and projects; and

WHEREAS, the RTA is required to adopt SEPA rules and procedures that are consistent with the rules adopted by the Department of Ecology, as may hereafter be amended, and may adopt by reference any or all of these rules; and

WHEREAS, the RTA has provided public notice and opportunity for public comment on the adoption of this resolution; and

WHEREAS, the RTA will review these interim procedures and may modify them at some future date; and

WHEREAS, the adoption of such rules and procedures are categorically exempt under SEPA;

NOW THEREFORE, BE IT RESOLVED by the Board of the Regional Transit Authority as follows:

Section 1. Authority. This resolution is adopted under RCW 43.21C.120 and WAC 197-11-904 and WAC 197-11-906, and is intended to implement those provisions. This resolution adopts by reference the state SEPA rules issued by the Department of Ecology, with modifications and additions relevant to the RTA's operations. The state rules can be found in Chapter 197-11 of the Washington Administrative Code (WAC) and at the office named in Section 3 below.

Section 2. The SEPA rules and procedures contained in Chapter 197-11 WAC are hereby adopted by reference, except as modified in the following sections. Chapter 197-11 WAC should therefore be used in conjunction with this resolution.

Section 3. SEPA Responsible Official. WAC 197-11-910 is amplified as follows:

a. The responsible official for the RTA is the Executive Director of the RTA. Until such time as the RTA names an Executive Director, the Chair of the RTA Board or his/her designee shall serve as the SEPA responsible official.

b. Delegation. The responsible official may delegate any or all of his or her responsibilities orally or in writing.

c. SEPA Information. Until such time as the RTA resolves organizational and staffing issues, the office that routinely handles SEPA matters at the RTA is the:

Environmental Planning Team
Regional Transit Project
15th floor, Exchange Building
821 Second Avenue
Seattle, Washington 98104
(206) 684-6752.

This office will provide information about environmental documents, the status of SEPA review for a proposal, and will answer questions about SEPA compliance. There may be a charge for certain documents (WAC 197-11-914).

Section 4. Agency Appeals. WAC 197-11-680 is modified as follows:

a. Appeal to the Executive Director. Agency appeals are provided for SEPA procedural determinations, except that an agency appeal is not provided for a determination of significance.

b. SEPA determinations shall be appealed by mailing or delivering a letter to the RTA Executive Director. Until such time as the RTA names an Executive Director, appeals shall be mailed or delivered to the Chair of the RTA Board. The letter must include the information in Section 4d below.

c. The letter of appeal shall be delivered (or postmarked) to the Executive Director, at the address given in Section 3a above within fifteen (15) days of the date the challenged environmental document or determination is issued.

d. For an appeal to be accepted, the letter must specify: (a) the document or determination being appealed; (b) the errors complained of; (c) the corrective action being sought; (d) the reasons why the determination should be changed; and (e) whether further oral or written comment or a hearing is requested. Supporting documents may be submitted with the letter of appeal.

e. If an appeal is determined to contain all of the points listed under Section 4d above, the Executive Director shall appoint a hearing examiner.

f. The appointed hearing examiner shall have thirty (30) days after securing sufficient information to make a decision in writing. The hearing examiner may set deadlines for the submission of any additional information or comments.

g. A hearing shall be provided if requested by the appellant. The hearing shall provide reasonable opportunity for the parties to present oral or written testimony and argument, consistent with this resolution and the SEPA rules. The presiding officer may

establish procedures for the hearing, and may set the time period allowed for each party to the appeal, including staff, to present its case. A hearing may not be scheduled for at least five (5) days from the RTA's receipt of an appeal unless the parties agree otherwise.

h. The RTA Board shall not take final action on a proposal while a proper appeal to the Executive Director on a procedural determination is pending. The Board has the authority on its own initiative to review or revise the hearing examiner's decision on an appeal. Any review by the Board shall not be considered an appeal proceeding.

Section 5. Categorical Exemptions. WAC 197-11-800(1) and WAC 197-11-908, concerning flexible thresholds for categorical exemptions shall be interpreted by the RTA as applying those exemptions specified by a city or county under these WACs to those proposals of the RTA that are located in said city or county.

Section 6. Scoping. The responsible official shall decide the scoping method and deadline for a given proposal, consistent with WAC 197-11-408. Any scoping beyond the minimum in WAC 197-11-408 (including formal or informal meetings and the use of forms, notices, or documents other than the form in WAC 197-11-980) shall be considered expanded scoping and is not required for adequate scoping under state law. The expanded scoping provisions in WAC 197-11-410 may be used without formally designating the process as "expanded scoping". In keeping with the intent of the state rules, the responsible official is encouraged to be innovative and shall have very broad discretion in developing creative scoping methods. A scoping process may also be used before a threshold determination (or at any other time in the SEPA process) to assist in identifying impacts and alternatives, including mitigation measures. If so, the form of the scoping notice shall be revised accordingly, so that agencies and members of the public understand the purpose and process being used.

Section 7. Public Notice. For notices of determinations of non-significance, determinations of significance/scoping notices, environmental impact statements (EISs), and public hearings on environmental documents, the RTA shall, in addition to, or in conjunction with, the circulation requirements to other agencies and affected tribes:

a. publish notice in a newspaper of general circulation in the general area where the proposal is located (and at least one newspaper in each county in which a specific project is located); initial newspaper publication shall occur at least fifteen (15) days before a public hearing;

b. furnish notice to anyone who has specifically requested to be notified about the particular proposal;

c. file the documents required by WAC 197-11-508 with the state department of ecology for publication of notice in the state SEPA REGISTER.

Section 8. Implementation. Mitigation measures included in the RTA's decision shall be incorporated into design plans and, where applicable, construction contracts. The responsible official may audit or review compliance with mitigation commitments. The Executive Director or his/her designee may direct appropriate corrective action if necessary.

Section 9. Definitions. This part contains uniform usage and definitions of terms under SEPA. These definitions supplement those contained in WAC 197-11-700 to 800.

a. Usage. The usage of the word "may" means "is authorized to" and is "optional and permissive and does not impose a requirement" (WAC 197-11-700 (3)(b)). Days are in calendar days. If a final date falls on a weekend or a state or national holiday, the date shall be the next working day.

b. Board. "Board" means the governing legislative body of the RTA.

The Board is responsible for final decisionmaking by the RTA except to the extent that certain decisions or types of decisions are lawfully delegated to staff.

c. Executive Director. "Executive Director" means the chief administrative officer of the RTA.

d. RTA. "RTA" means the Regional Transit Authority. For purposes of this resolution, the RTA's procedural responsibilities will be carried out by the responsible official unless otherwise specified.

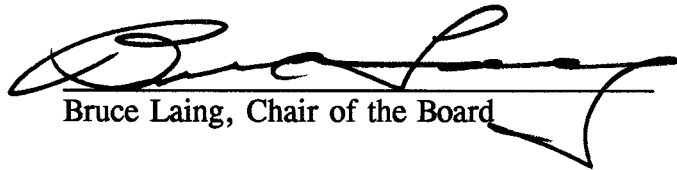
e. Staff. "Staff" or "staff member," for the purposes of this resolution, means employees of the RTA or staff members of other agencies assigned to work on RTA issues by interlocal agreement. It does not include Board members.

Section 10. Transition to New Rules. All EISs issued after this resolution is effective shall follow the requirements laid out in this resolution. Environmental documents and notices issued on behalf of the Joint Regional Policy Committee (JRPC) and its member agencies prior to the effective date of this resolution, including draft, final, or supplemental EISs, do not require revision or reissuance to meet the requirements of this resolution.

Section 11. Revision of SEPA Procedures. The RTA may amend its SEPA procedures from time to time as may be necessary. The responsible official may provide additional guidance and procedures to carry out this resolution.

Section 12. Severability. If any provision of this resolution or its application to any person or circumstance is held invalid, the remainder of this resolution or the application of the provision to other persons or circumstances shall not be affected.

ADOPTED by the Board of the Regional Transit Authority for Pierce, King and Snohomish Counties region this 12th day of November, 1993.



Bruce Laing, Chair of the Board

ATTEST:



Clerk of the Board