



Updating the Administrative Rules Implementing the Growth Management Act Fall 2007 Listening Sessions Scoping Report

In October 2007, the Department of Community, Trade and Economic Development (CTED) hosted four listening sessions as part of a preliminary scoping for the updates to Washington's administrative rules governing the Growth Management Act (GMA). CTED hosted four sessions, in Vancouver, Mount Vernon, Lakewood and Moses Lake. Participants represented a broad cross section of stakeholders. Participants represented cities, counties, health districts, state agencies and state universities. Participants also represented farmers, shellfish farmers, members of the building industry, realtors, environmental groups, historic preservation advocates and local trails organizations.

The discussion covered the entire range of issues covered by the GMA. Participants also provided advice on how the rule making process should proceed, how the review of the Washington Administrative Code (WAC) should be conducted. There were several participants who urged CTED to draft the rules in a way that was understandable to the public and that avoided overly bureaucratic language. There were also several participants who cautioned CTED to take care to ensure that the agency does not exceed its statutory authority; either by adopting rules or requirements that are beyond those contained in statute or by absolving local governments of requirements of the GMA.

In all four sessions, there was a considerable amount of discussion around transition of governance in urban growth areas (UGAs). This refers to managing the sequence of events necessary for an orderly transition of land from a rural, unincorporated area to an urban area that is incorporated and has a full range of urban services. Many participants expressed a desire for more detail in the administrative code on how this should be accomplished.

Although the listening sessions occurred in October, CTED is seeking input on the scoping process through the end of 2007. The following is a summary of participant comments from each of the four sessions. This information will be combined with other comments on the scoping phase. CTED will use these comments to help inform decisions and set priorities on what revisions are needed to the existing administrative rules and what new rules should be developed.

**Comments from Vancouver Listening Session
Vancouver City Hall
Monday, October 15, 2007**

General Issues What Should be Changed; What is the Framework for Evaluation?

- The focus of the WAC should be guidance on the review of existing plans and regulations.
- The WAC should clarify the planning process the public.
- The WAC should better explain the docketing process for annual comprehensive plan amendments.
- Better organization, indexing and cross referencing would be very helpful.
- Make language more understandable to the average person.
- Structure guidelines the way the RCW is codified.
- The WAC could use a substantial rewrite.
- The process should fix identified problems, but don't start over.
- The WAC should have more authority so we have predictability. The Growth Management Hearings Board does not consider them binding.

What do you use the WAC for?

- Local governments use them for guidance and interpretation of the GMA.
- Developers mostly look at local codes and do not consult the WACs directly.
- Planners use it during local update for clarity on what the GMA requires.
- Planners use it especially if they expect to face the hearings board.
- Planners use it most on procedural issues.

Transportation

- The main transportation issue is local concurrency.
- The WAC should clarify who sets level of service (LOS) standards for state highways that are not highways of statewide significance.

Agricultural Lands of Long-Term Commercial Significance

- The existing WAC lists criteria, but provides little guidance on how to apply them.
- The WAC should provide more guidance on how to evaluate and use information on market conditions.
- The WAC should address how to provide for agricultural land needs that are not dependant on prime soils.
- The process should review the criteria for determining long-term commercial significance. Participation in the open space tax program is not a very helpful indicator.

Urban Growth Areas/Annexation/Urban Services

- The WAC should provide more guidance on the mechanics of impact fee systems.
- Some of the hardest issues are those associated with transition of governance issues for lands in the urban growth area (UGA). The WAC should address these issues in more detail.
- The WAC should address the need for consistency between city and county development regulations in UGAs.
- If counties are considering adoption of city regulations within the UGA, how do they make the change without disfranchising existing property owners?
- The WAC should clarify the requirements for capital facilities planning for new UGAs. What level of detail and how much reasonable certainty is required to show your work?
- The WAC should provide more guidance on how to perform a land capacity analysis.

Critical Areas

- The WAC needs to provide more guidance on the requirement to designate open space corridors. This should also address connectivity of open space corridors.

Capital Facilities Planning

- The WAC should provide a clear definition of capital facilities.
- The WAC should clarify what constitutes reasonable certainty for capital facility plan (CFP) funding.
- The WAC should clarify what is the appropriate planning horizon for the Capital Facilities Element. 40-50 years is the life cycle of major infrastructure.
- The WAC should provide more guidance on determining if your Capital Facilities Element supports your Land Use Element.

Review and Update Process

- The guidance should explain how to establish finality in the review process. It should address questions such as:
 - When do you re-open the appeal window on old issues?
 - What does it mean to review your comprehensive plan and development regulations?
- The WAC should explain how the review and update process works. Local governments must show on the record that they followed an adequate process.
- The WAC should explain how to achieve finality of decision in the update process.

- The WAC should clarify and harmonize the various timeframes for updates, such as the seven-year plan updates and the ten-year UGA review.

Other laws to Address

- Critical area ordinance (CAO) Shoreline Master Program (SMP) Interface
 - Especially on consistent implementation.
 - Consistent definition terminology so that you can maintain consistency between the CAO work and the SMP without the workload of doing all at once.
- Be mindful of:
 - State Environmental Policy Act (SEPA) rules.
 - Forest practices.

Other issues

- The WAC should address the buildable lands requirements (36.70A.215c).
 - Clarify the definition of “reasonable measures.”
 - Clarify what happens targets are not met.
- The WAC should clarify how to use economic criteria when reviewing agricultural resource lands designations.
- The WAC should clarify how to maintain consistency between plans of neighboring jurisdictions.
 - Zoning and transportation planning.
 - Transportation impacts across jurisdiction lines.
 - Transportation impacts on state facilities.
 - How to mitigate impacts and fund needed infrastructure when impacts cross jurisdictional boundaries.
- The WAC should address process and criteria for limited areas of more intense rural development (LAMIRD).
- The WAC should clarify how to use Office of Financial Management growth forecasts.
- The WAC should better explain the role of special purpose districts.
- The WAC should better address coordination on cultural resource protection.
- The WAC should include a section on county-wide planning policies.

**Comments from Mt. Vernon Listening Session
Cotton Tree Hotel
Tuesday, October 16, 2007**

General Issues

- When deciding what to cover, look in future. What will local governments need to address in the next 20 years?
- Consider different audiences who use the rules when you are drafting them.
- Need to be sure the public can understand the rules.
- Make sure you understand how the public uses the guidance.
- It is hard to address holistic issues-when the GMA elements are often compartmentalized.
- The rules should promote more integration of plan elements.
- The WAC needs to address the review and update process.
- The WAC should address how to manage the scope of appeal during the review and update process.
- There is a resistance by special purpose districts to needing to “do” GMA planning. WAC should address how special purpose districts should be involved.
- CTED must not exceed its statutory authority by adding requirements to the rules that are not in the GMA.
- The guidelines need to have more “teeth.”
- CTED should be more assertive.
- The WAC guidance should be more helpful in applying definitions on the ground.
- Make sure you coordinate with the Department of Agriculture, agricultural viability project.
- CTED does technical guidance well.
- You should use this process to also identify gaps in the statute.
- Get perspectives and viewpoints on guidelines from the various interest groups.
- Make sure to address procedural questions.
- How much clout do the guidelines have?

Transportation

- Rural transportation needs can negatively impact working resource lands. Rules should recommend how to address this within the Rural or Transportation Element.
- Washington State Department of Transportation has limited tools to address concurrency. This can create big problems and make it hard to coordinate with local governments.
- WAC needs better guidance on how to deal with transportation issues under GMA.

Critical Areas

- Rules should better address frequently flooded areas.
- The WAC should address stormwater run-off and be consistent with the requirements for jurisdictions under the Clean Water Act (NPDES).
- WAC needs better guidance on how to address greenbelt requirement for open space corridors within and between UGAs.
- WAC needs better guidance for open space planning in general, especially how to integrate critical areas, watershed planning, open space planning and other environmental programs and requirements.
- Need more clarity on wildlife habitat requirements.
- The WAC should require full cost accounting-impact on environmental resources.
- The WAC should include guidance on the value of environmental resources and how to quantify this value.
- The WAC should provide guidance on what the carrying capacity is. How much more growth should we have?
- The WAC should add planning for natural hazards.
- The WAC should address how to deal with wetland mitigation banking on agricultural lands.
 - There is a concern over applicability to state agencies-pilot wetland mitigation banks.
 - How should county address conflicts imposed by these banks
 - Designation of wetland mitigation banks.
 - Mitigation banks create conflict between state & local policy that should be resolved.
 - The rules should reign in mitigation banking pilot projects.
 - The rules should address conflicts between mitigation banks and agriculture lands needs.

Urban Growth Areas/Annexation/Urban Services

- The rules should recommend a framework for determining urban density-while maintaining local flexibility.
- The rules should provide better guidance on transition of governance issues within the UGA, such as:
 - Extending urban services into unincorporated UGAs.
 - Guidance on what standards can/should be required.
- Special districts that are not subject to GMA. Further clarify their relationship.
- Individual property owners can affect annexation decisions.
- Special districts drive annexation process and can thwart transition of governance even when city and county plans call for it.
- WACs should provide a way to tie annexations and special purpose districts to comprehensive plan process.
- WACs should clarify issues around extending “urban” services outside the UGA.

- The WACs should address how to equitably distribute growth between cities and between urban and rural areas.
- The WACs should recommend a framework for setting LOS standards.
- The WAC should address Interjurisdictional impact fees.
- The WAC should clarify at what point water service becomes an urban service.
- The WAC should address how to plan for fully contained communities. They are not really “fully contained.”

Rural Issues

- The WAC should address LAMIRDs. It should address when or if they can be expanded and clarify definitions of LAMIRDs.
- The WAC should provide more guidance on avoiding impacts to rural character.
- The WAC should clarify the appropriate scale for measuring density. The WAC needs to better encourage innovative zoning techniques. Rural zoning allows five-acre estate “sprawl” that doesn’t conserve agriculture lands.
- The WAC should address rural clusters. Clustering can result in urban densities in rural areas. It should explain how to limit clustering in rural areas and how to address cumulative impacts of rural clustering at build-out.
- The WAC should address how to handle pre-GMA subdivisions.
- The WAC should clarify the process for amending UGA boundaries.
- The WAC should recommend how to meet the challenge of preserving open space without taking property rights.

Cost/Fiscal Issues

- Funding for good planning is inadequate.
- There especially needs to be more support for counties, who have much of the responsibility under the GMA.
- There is not a forum to discuss the overall fiscal sustainability of local governments.
- The cost picture should reflect maintenance of infrastructure, also watershed sustainability.
- It is hard to quantify the public cost of development. The WAC should address how to do this.
- The WAC should also address the equitability of cost distribution.
- The WAC should address how to deal with “full cost” accounting of developing and running a plan.
- There should also be a linkage between planning decisions to the cost of implementing those decisions.
- There needs to be fiscal honesty and full disclosure of costs.

Other Laws to Address

- The WAC should clarify the GMA/SMA interface. It should clarify what local plans and regulations are subject to Department of Ecology approval under the SMA.

What are you worried about?

- CTED's update process will be "hijacked" by some special interests.
- The guidance will be too weak.
- It will result in more unfunded mandates.

Other Issues

- The WAC should address how to evaluate "consistency"?
- The WAC should clearly explain the difference between the comprehensive plan and zoning maps.
- Political problems are often brought to hearing boards.
- Hearings board appeals on these issues divert attention from real long-range planning.
- Perhaps appeals are too easy.
- The WAC should include recommendations to better address sustainability.
- The WAC should include recommendations on how to allocate limited capacity.
- The WAC should call for a more "systems" approach.
- There should be more guidance on historic preservation.
- This is a good opportunity to address gaps between SEPA and SMA.
- The profusion of single family homes taking precedence over other types of development.
- Look at potential agriculture uses.
- Provide recommendations on health district decisions impacting planning.

**Comments from Lakewood Listening Session
Clover Park Technical College
Wednesday, October 17, 2007**

General Issues

- WAC Organization:
 - Update should focus on implementation.
 - The current organization is useful in that it follows logical steps.
- How will you incorporate legal opinions?
- The WAC should maintain and strengthen the emphasis on the first section on local control and discretion.
- Avoid adding even more complexity.
- The WAC should address how to maintain consistency between policies and implementing regulations.
- The WAC should address how to coordinate multiple timelines.

Transportation

- The WAC should better address concurrency.
- The WAC should address consistency with Regional Transportation Planning Organizations (RTPOs).
- Transportation Elements must be reviewed by RTPOs; guidance to RTPOs on how to review plans for consistency would help.
- The WAC should provide more guidance to local governments on how to address state LOS designations on state highways.

Urban Growth Areas/Annexation/Urban Services

- Some public facilities are both urban and rural. The WAC should provide guidance for jurisdictions on what is an urban service and what is a rural service. (especially water)
- The WAC should address annexation issues such as:
 - Steps to mitigate/ease transition from rural to urban.
 - Appropriate revenue sharing.
- The WAC should provide more guidance concerning density. What does "urban density" mean?
 - The WAC should address steps for setting urban growth boundaries and when cities and counties need to mediate.
- The WAC should address how to set impact fees, especially public participation in setting of impact fees.

Buildable Lands

- The WAC should address what local governments should do with the buildable lands reports once they are completed.
- The buildable lands requirements are not addressed in guidelines need clarification.

- The WAC should address how to handle a loss of buildable land.
- The WAC should further clarify the requirement for “reasonable measures.”

Housing

- The WAC should provide more guidance on targets for affordable housing and how they are linked to general targets for accommodating growth.
- The WAC should recognize complexity of housing.
- The WAC should provide more guidance on how to monitor housing trends.
- The definition of “affordable housing” should be expanded to include workforce housing.
- The WAC should better define the role of cities today in providing affordable housing.

Critical Areas and Resource Lands

- The WAC should clarify designation of critical areas (365-90-080).
- The WAC should address de-designation of resource lands.
- The WAC should address shellfish beds as agricultural resource lands and provide guidance on avoiding use conflicts in the waterfront.
- The WAC should provide more guidance on designation of mineral lands and protection of mineral resources, especially gravel deposits.

Other Laws to Address

- The WAC should provide additional guidance on SMA/GMA integration.
- The WAC should address the Fair Housing Act.
- THE WAC should further explain the SEPA process.
 - Consolidate SEPA guidance.
 - Include guidance on planned actions.
- The WAC should integrate GMA with the Planning Enabling Act especially on procedures.

Other Issues

- There is sometimes a disconnect between population allocations and actual growth.
- The WAC should address the linkage between growth target and other areas of the plan.
- The WAC should provide a process for regional growth planning.
- The WAC should address fully contained communities and coordinate with the Puget Sound Regional Council (PSRC) 2040 plan. The GMA clearly provides for fully contained communities but the 2040 plan discourages them.
- The WAC should provide guidance for locals on how to address global warming.
- There is no authority for CTED to adopt rules addressing global warming.
- The WAC should better address regional governance issues.

**Comments from Moses Lake Listening Session
Big Bend Community College
Thursday, October 18, 2007**

General Issues

- Write the WACs so that average citizens can understand them. Avoid overly-bureaucratic language and jargon.
- Political choices influencing GMA (county-wide planning policies).
- The WAC should provide more guidance on public participation.
- The WAC should do a better job of connecting different elements of the plan.
- Comprehensive Plan Elements tend to be siloed. Better guidance is needed on where inter-related components should be integrated. Need more advice on how to handle inter-related components.
- There is a need for better guidance on how multiple jurisdictions coordinate planning activities.
- The WAC should reflect case law and Hearing Board decisions so that local governments can rely on the advice in the WAC.
- The GMA contains an often-confusing array of deadlines. For example, the seven-year compliance reviews, the ten-year UGA review. The WAC should provide more clarity on how to coordinate these requirements.
- The WAC should provide more clarity on how to handle consistency between different plans that are adopted on different cycles. Coordinating requirements.
 - Iterative plans-many going on simultaneously.
 - Add dates to guidelines.

Transportation

- The WAC should better information on how to set LOS for transportation.
- The WAC should better address concurrency requirements and how they relate to state transportation facilities.
- The WAC should also address access control on state highways, especially in urban areas.
- The WAC should address new provisions for creating Transportation Benefit Districts.

Urban Growth Areas/Annexation/Urban Services

- The GMA calls for a pattern of development with “urban” areas and “rural” areas, yet large portions of some counties, both inside and outside of UGAs are not really urban and not really rural either. The WAC should provide more advice on how to plan in a way that recognizes this existing pattern of development in the GMA context. How do local governments deal with “legacy” patterns of development and still comply with GMA?
- Local Governments need more clarity on what is an urban density.

- The WAC should address how to facilitate annexing developing properties into the UGAs.
- Sometime a single owner owns large tracts of vacant land inside the municipal boundary of a city UGA and is not interested in development. This counts against the city when they want to expand the UGA, but this land does not help them accommodate growth. The WAC should have a recommendation for addressing this in the context of setting a market factor for the UGA.
- The WAC should provide more guidance on directing urban growth into urban areas.
- The WAC should provide more guidance on the population allocation process.
- The WAC should provide more guidance on infill development.
- The WAC should provide more guidance on setting urban growth boundaries.
- The WAC should provide more guidance on how covenants effect urban services.

Trails and Parks/Health/Safety

- The WAC should address provisions for trail development by local governments.
- The WAC should call for pedestrian overpasses.
- The WAC should provide more guidance on developing bike plans.
- The WAC should provide more guidance on balancing the need for trail facilities versus need to protect critical areas when riparian corridors are used for trails.
- The WAC should place greater emphasis on pedestrian and bike transportation for health and safety.
- The WAC should address land use strategies to promote physical activity.

Other Laws to Address

- The interface with the Shoreline Management Act needs better definition.
- The WAC should address the Fair Housing Act.
- The WAC should address the SEPA process for updates.
- The WAC should cover planned actions.
- The WAC should explain the relationship of planning enabling Acts with GMA.

Other Issues

- More guidance on historic preservation and sustainability.
- Guidance on how historic areas/critical areas are a benefit to community.
- The WAC should address local government interaction with large facilities such as university campuses or hospital campuses.
- The WAC should provide more recommendation on the role of regional governments.

- Minimum guidelines should guide the review and include a process for de-designation of agricultural lands and other resource lands.
- The WAC should include recommendations for addressing global warming
- There is no authority to address air quality-global warming in the GMA.
 - Where is the authority? What mitigation is there if it is required?
 - Can SEPA address climate change issues? Hesitate to add more when already not well accomplished.
- The WAC should clarify what fish and wildlife habitat conservation areas are and what the obligations are to designate.
- The WAC should address issues around special districts.
- The WAC should provide more guidance on neighborhood planning and sub area planning.