

GORGE 2020



FOCUS ON OUR FUTURE

**URBAN AREA POLICY
FOCUS TOPIC**

STAFF WORKSHOP

OCT. 15, 2018

Today's Discussion

Welcome Back

Guidance Versus Rule (Jeff Litwak)

Policy Framework (Jeff Litwak)

Roundtable

Guidance

“Interpretive Rules” and “Policy Statements”

Not binding on the agency or regulated persons.

Agencies may reference guidance in notices and decisions, but a person cannot violate guidance.

Guidance

Oregon defines “rule” to include policy statements and interpretive rules (ORS 183.310)(9)).

Washington defines interpretive rules and policy statements differently from “rule” (RCW 34.05.010).

Guidance

Washington (RCW 34.05.230)

- Encourages interpretive rules and policy statements.
- Must publish a statement describing the subject matter in the Washington State Register.
- Encourages converting interpretive rules and policy statements into rules.

Guidance

Easier for an agency to issue guidance than a rule.

Alerts the public.

- Most people comply.
- Agency does not need to take an individualized action to implement policy.
- No surprises.

Uniform application of law.

Guidance

Public input not required, so input often comes in the form of litigation.

Agencies may treat guidance as binding.

Agencies can decide not to rely on guidance without notice and comment, except where a person has relied on the guidance to his or her detriment.

Next Workshops

Nov. 19 – Friends of the Columbia Gorge will present a conservation perspective; continued discussion of draft policy and alternatives.

Dec. 17 – continued discussion of draft policy and alternatives; framework of report to Commission.

2019 Workshops TBD – continued discussion of draft policy and alternatives; modeling draft policy and alternatives; report to the Commission.

Roundtable

Your thoughts?

- Comments on today's discussion.
- Comments on anything else.
- Concerns?