

SEPA Advisory Committee Meeting Notes April 11, 2013

Welcome and Introductions

Neil Aaland, Facilitator, opened the meeting. Introductions were made around the room and on the phone. Neil reviewed the agenda and noted that Tom Clingman, scheduled for 10:00, would not be able to attend. Brenden McFarland will provide the overview on the new Cultural/Historic Issues Workgroup.

Public Notice

Neil explained the handout and the format. He then reviewed the issues outlined and the Ecology response to the issues.

Clarifying Questions:

- Clay White explained that the requirement to provide notice to the register only applies to the newly exempt category; would not apply to project applications NOT exempt from SEPA
- There are two different proposals
- Can Ecology configure the SEPA Register to handle this?
 - It is theoretically possible but not within available resources

Discussion included the following points/questions:

- This should just be required for existing threshold levels that are raised; that would avoid the GMA vs. non-GMA jurisdiction issue
- Would the flexible thresholds section have to be revised?
 - It would be revised to have a uniform starting point, with minimum levels
- There should be an online form that will allow people to make requests (e.g. all projects within a certain distance of an identified spot)
- Get the 1 page form going first then seek an expanded register/clearinghouse; it's a two phase process to revamp the register
- The legislation [6406] directed that notice be addressed in general, not just for SEPA required notice
 - The one page notice would apply to newly exempt and "all that are practical to do"
 - This should even be required for a single family home
- A lot of reporting occurs for single family permits – is the issue a matter of notice or data?
- There will be significant push back on the proposal for notice for ground disturbance
- What problem is trying to be solved?
- Notifying on everything will be too much
- Broadening existing exemptions and losing notice is a concern, but what projects are triggering notice?
- The focus is supposed to be on increasing categorical exemptions
- Support the basic ideas of the county proposals
- This year's task is about notice for projects of interest, not just for categorical exemptions

- Don't want to see anyone cut out, but SEPA review should be done in an efficient way. Seems like we're heading toward a broader purpose and getting off track; there are no resources at state level to do all this and there are limits at the local level
- The proposal for one-page notice would require notice for everything
 - Response: there would be some level for which no notice is needed, but even some single-family homes have impact
- The clearinghouse idea is good but not as part of this process
- The statutory direction and direction from Ecology management is "seeking notice equal to or better than we have now"
- Requiring a form is good, trying to make it simple, not requiring much process
- It is difficult to do a lot of mailed notice; the important thing is the simple form
 - the goal is moving toward centralized notice
- In the proposal on public notice provided by the environmental stakeholders, good to see greater clarity for notice in the one-page form proposal in subsection 2(d)
- What notice is provided for exempt projects?
 - See proposed subsection 3; requires posting of the short form by Ecology on its website
- Each agency is allowed to set its own methods of notice; with some of these changes might end up with less notice than is currently provided

Cultural/Historic Preservation: New Workgroup being formed

Brenden McFarland discussed the new workgroup being formed to address Cultural/Historic issues, and referred to the handout provided to the Advisory Committee.

Discussion:

- June 30 is too soon to be able to accomplish the goals; it is unlikely the workgroup can come to agreement
- Proposals in Senate and House are of concern, House proposal is worth looking at
- This is a bigger issue than SEPA
- There is a place to address cultural resources and it's in SEPA with this advisory committee
- Brenden explained the reason for the June 30 deadline is to meet the legislative deadline [adopting a rule by 12/31/13]
- The meeting with Rep. McCoy showed there is agreement that something is needed, not necessarily tied to rulemaking,
- The task description is weak;
 - The history of the Advisory Committee [in addressing cultural/historic preservation concerns] does not give confidence
- State agencies need a voice on the workgroup
- This is a big concern for tribes; it's more than just notification
- There are concerns about more meetings but wouldn't turn down the opportunity to discuss this more
 - There are already proposals on the table, sample decision trees for SEPA officials
 - Don't need to re-invent the wheel, start with proposals on the table
 - It's not responsible to drop cultural resources from the Advisory Committee

BREAK was taken at 10:30.

Resume discussion on public notice

- City of Seattle covers notice under their existing ordinances
- There can be significant impacts from SF homes
- The section on “reasonable methods” of notice need to be updated, section 2 should go away, agrees with concept of the form and it’s filled out for all projects
- The proposal is identical to what’s in 36.70B
 - King County posts notice only where people will actually see it
 - not – for example – on an isolated gravel road nobody drives on
- Different jurisdictions have different needs for notice,

Categorical exemptions - general

- Annie Szvetcz began reviewing the document showing proposed changes to exceptions to exemptions and utilities
- There was discussion about Ecology’s approach to providing feedback on ideas
 - Pamela suggested a different approach of having the entire Advisory Committee review the entire exemptions section and give a yes-no on whether it should be revised; she thinks that would help with the record
 - Gerald and Ann prefer Ecology’s approach, where issues were identified for discussion
 - Ecology will consider these suggestions for the next meeting

Exceptions to exemptions

- Advisory Committee members want to see the entire list of proposed changes provided by stakeholders
- Discussion about section 197-11-908 – do jurisdictions use this ability to decide certain exemptions won’t apply within specified critical areas?
 - Some do – Seattle does
- Lands covered by water:
 - Need to update this, all we’ve had is an AAG opinion
 - Makes sense to exclude artificial lakes and ponds (Ann)
- We should look at definitions
- Committee needs to see the rationale for changing any exemptions
- Counties provided data on why exemptions should be increased, want to see data on problems – when notice is not being provided
- There is disparity between jurisdictions in how Critical Areas Ordinances are drafted, still cannot get rid of SEPA review
- Part of the power of SEPA is that mitigated DNS’ are able to address impacts
 - Citizen involvement would be eliminated in some cases
- Does the “lands covered by water” exception affect an entire parcel if a stream goes through one corner?
 - Under WDFW’s Hydraulics Project Approval regulations, if there are no local permits up to 50 cubic yards can be dredged without SEPA review
 - Local governments have to go through SEPA for minor things, need to focus on the real impact
- Consider several ideas for exceptions:
 - Creating a separate rule or section for exceptions’
 - Update definition of “lands covered by water”
 - Add a provision that if jurisdictions can demonstrate the impacts are addressed, no longer an exception

- Rezones are not exempt if connected with minor new construction (see 197-11-800(1))
- Air and water licenses: jurisdiction define “commercial” and “industrial” differently
- The “discharge” term is confusing, needs definition
 - Last summer’s ad hoc subcommittee supported getting rid of this exception; they interfere with infill projects

Ecology was requested to consider for the next meeting:

- Need one packet per topic, with background including suggestions we received on that topic
- Data to support request to limit exemptions
- Look at other states and see what they exempt – Michigan, Massachusetts, California

Meeting adjourned at 1:00 pm.