

SEPA Advisory Committee Meeting Notes
July 25 2013
Meeting Location: Department of Commerce

Welcome and Introductions

Neil Aaland, Facilitator, opened the meeting at 9:00 a.m. Introductions were made around the room and on the phone. The agenda was reviewed.

General Questions

- Regarding the pipe size in the utility section, is the proposal to go with larger pipe sizes than 12 inches? [That is one suggestion, the proposal only goes to 12"]
- Ecology should consider having the lands covered by water exceptions contained in one section, rather than scattered throughout the exemptions

Lands Covered by Water (LCBM)

- This exception should apply only below OHWM
- Small group has a draft proposal (Harry handed out)
 - Applies to non-fish bearing streams
 - Clarify short plats, ones that don't go through SEPA
 - Q: how does this affect bridge construction?
- Support updating the language, buffers should be considered LCBW
- Buffers should not be LCBW, already regulated by CAOs
- Associated buffers under the SMA are different, have hydraulic connectivity
- SEPA is about more than regulation, it opens up projects to comments
 - CAO may not cover everything
- Legislation says we've adopted regulations addressing these impacts, don't need to use SEPA now
- Artificially created waters – don't have to protect unless required as mitigation
- Need to define artificially created waters
- Drainage and improvement districts own their water, need to take that into consideration
- Don't forget stock and watering ponds, irrigation
- Oppose removal of concept of LCBW
- Should have it in just one section, not scattered throughout

Over water but not in water

- OK for minor repair of dock, but should not be a blanket exemption for this category, can have an impact

Under water but not in water (e.g. drilling under the bed)

- HPAs are required for drilling under bedlands
- SMA permits are required
- JARPA info can be sparse
- Support clarification of this category

Minor land use decisions

- Proposal ties to projects not permits, trying to list every permit is difficult
 - This won't raise exemption levels
- Two types of rezones, one complying with comp plan the other not
- Going higher [more intense land uses] would have to comply with process in 800(1)

- BLAs should not be exempt, sometimes new lots are created
- If new lots are created it's not a legal BLA
- Sometimes rezones complying with comp plan were not analyzed properly, no information in environmental documentation
- Generally agree but rezones need clarification – expansion of UGA is problematic for agriculture (within existing UGA not worried unless on agricultural lands of long term commercial significance)
- Re-structuring this section provides advantages to local jurisdiction but exception language needs work
 - Clarify that if pieces aren't exempt then whole project isn't exempt
 - Rezones should not be exempt
- Concept cause lots of concern, land use decision is defined broadly, exempting here could allow local governments to exempt broad categories of land use decision from 36.70B process
 - Claudia will provide a cite to Neil
- For rezones, review at time of comp plan doesn't really happen
- In urban areas lots of people are affected
- BLA and variances should not be exempt
- Each jurisdiction may have several zones that provide similar requirements, already have done analysis on the result
- Can't create new lots in a BLA
- Still have a public process for minor land use decisions
- Perhaps bifurcating UGA/outside UGA would help the issue
- Variances, CUPs, others will still otherwise require public notice

Minor code amendments

- Discussion about the statutory language that limits what can be exempted; seems to allow some types of minor code amendments to be exempted and not others
- Some jurisdictions apply the statutory language broadly
- Intent was to exempt run of the mill amendments
- One concern is GMA requires protection of agricultural lands; as development regulations are tweaked, what are text amendments? Is a buffer change from 30 to 50 feet a text amendment?

Mixed Use

- Rules are presently silent on how to address mixed use
- Do not agree with Ecology's proposed interpretation to add the exemption levels together
- Environmental community believes they gave a lot with this, would consider appealing if this interpretation stands
- Local governments think some kind of clarification is needed

Fill and Excavation

- How are cultural resources addressed in this review process; concerned about things falling through the cracks
- This issue previously existed, same risk as before
- 1000 cubic yard threshold is too much, allow 100 cubic yard if local governments want
- Brenden described a survey in the mid-2000s, where this item was the most common topic for local governments to adopt the highest thresholds

Other minor new construction

- Support Seattle's suggestions but not the LCBW component

Storage Tanks

- Should have a smaller limitation for flammable tanks
- Flammable tanks are covered by the fire code
- Support the threshold level on tank removal for 10,000 except for those holding explosive materials should have a threshold of 1,000
- Consider creating a separate exemption for residential and non-residential tanks
- Consider other regulations and be sure SEPA is the appropriate place to address
- Tribal concerns about larger threshold for below ground tanks [potential to interfere with below ground cultural resources]

Demolition

- Adding "eligible for listing" is too broad
- Demolition is over the counter, sometimes permits are not required
- "eligible" is proposed because this is standard practice on the federal side
 - Eligibility not just tied to the age of structure

In-water maintenance

- Brenden McFarland summarized this topic
- Adding bulkheads as the example takes on new meaning in port areas, they are continuously doing minor repairs, don't want to impede that ability to do
 - E.g. replacement of pilings: bumper pilings needed for safety, don't want to impede replacement of those
- Could get an overall permit for maintenance, SEPA would be done once
- More clarity needed on what is considered minor construction
- Consider adding floodgates, tidegates
- Adding language that constricts is contrary to the legislation
- Don't want language to discourage removal of bulkheads
- Try to work in "minor" maintenance

Purchase or sale of authorized public use

- Environmental community has support for option 1

Business and other regulatory licenses

- Lots of things are included here
- Be sure this doesn't exempt too many licenses

Utilities

- Oppose pipe sizes larger than 12 inches being exempt
- If it's exempt here, it might be trumped elsewhere – which would govern?
- PUDs support changing to 12 inches – uses same type of equipment, usually needed for fire flow; natural gas is exempt up to 16 inches
- Utilities can run from one UGA to another

Natural Resource Management

- Re-routing trails is a problem, could have significant adverse impacts

Habitat Restoration

- Seattle's limits to watershed restoration plans good, some minor changes needed
- Like having the larger [habitat restoration] plan
- Agricultural community support no changes
 - finding impacts all over Puget Sound from habitat restoration projects
- SMA exempts certain actions and this sometimes conflicts
 - Already is a permit consolidation piece in state law
 - Don't build on a flawed foundation

Small Energy Projects

- Should any other small projects beyond solar be exempted?
- Options 1 or 2 are okay, but not option 3

Timber sales exemption for rock sales

- Not appropriate to exempt rock sales with rock art
- Need more information from WA DNR

CAO Exemptions

- Ecology not proposing to do anything with this existing section

Exception to exemption for Agricultural Lands of long-term commercial significance

- Not appropriate to say further protection not warranted but agree with proposals coming from cities and counties
 - Conversion of agricultural resources should not be exempt

Statutory Exemptions

- Just refer to the statute

The meeting adjourned at 1:00 pm.