

SEPA Advisory Committee Meeting Notes May 9, 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 the process for today. After the last meeting, feedback was received that there was a need for more structure; committee members wanted a proposal to react to; and we needed to work on categorical exemptions. Therefore, this meeting will focus on categorical exemptions. Other topics will be addressed at the next meeting. The documents for today are a very rough draft, for discussion purposes.

Neil then reviewed the schedule from here; Brenden McFarland reviewed the scope of discussion for the phase 2 rulemaking.

Update on cultural/historic preservation workgroup

The workgroup's first meeting was on April 22. Neil said he thought the meeting went well. He mentioned that Mary Rossi referenced three different proposals that had been made at the SEPA Advisory Committee, and she suggested using those as a starting point. There was a lot of discussion about substantive points related to the regulatory framework around cultural/historic preservation and the notice (and lack of notice) that is of concern. The next meeting is set for next week on May 14. Once there's more clarity from that group around a proposal, it will be provided to the Advisory Committee for reaction.

Discuss Ecology's rough draft of categorical exemptions changes

Ecology has prepared an initial response to the submitted requests for change. Neil explained that the discussion would be structured as follows:

- Fifteen minutes (or more) for clarifying questions of Ecology
- Each interest will have up to ten minutes to provide their reaction to Ecology's proposed changes to Categorical Exemptions – one statement per interest
- We'll take a break after that
- Final portion will be a general opportunity for discussion/feedback on the proposal (including identifying additional information for Ecology to provide)

Reaction to proposed changes

- Environmental community:
 - This is a strong first draft, comfortable except for a few points
 - Habitat restoration section needs a rewrite, need to hear rationale, why five acres?
 - Dredging – unclear why it's now qualified, the number is a big change and too high
 - Definition of mixed use development is inconsistent
 - Issue with air emissions
 - Boundary line adjustments sometimes DO create new lots
- Agriculture interests: no comments
- Cities
 - We looked back at 6406, want to address exemptions because environmental regulations now cover issues
 - Cities endorse eliminating exception for lands covered by water when there is an updated Shoreline Master Program
 - Industrial: a new exception has been created

- Why is a new review for agricultural lands being added?
- Definition of mixed use – the additive nature IS appropriate
- Need more exemptions for minor land use
 - E.g. people should be able to redivide land
- Boundary Line Adjustment has not been clarified, we like the county language
- Utilities – if in a developed right of way, why even a 12 inch limit?
- Statutory exemptions – should work toward having them all in the rules
- Not proposed: exemption 19 [procedural actions] should be revised
- Adoption of noise codes
- Counties
 - Industrial use language is too vague
 - Exception for lands covered by water needs more discussion; updated SMPs need to be recognized
 - When is a project on lands covered by water?
 - Ag lands issue, the comment isn't quite correct; 6082 said to add to checklist, not a new exemption
 - Deletion of grading/excavation exemption is a problem
 - Minor land use decisions – the label of the permit is not the issue, it's the underlying use
- Tribes
 - Keep exception for lands covered by water but clarify
 - Will submit ideas on habitat restoration in writing
 - Concerned about dredging 50 cubic yards
- Business
 - Agrees with cities and counties points
 - Still looking for streamlining
 - Habitat restoration language needs clarification
 - Adding additional exceptions for ag lands was not envisioned by 6406
 - Concerned about industrial use provisions
 - Ecology hasn't described their understanding of 6406
- State agencies
 - They still need to caucus and discuss
 - Several agencies have questions regarding ag lands provisions, sale of lands
- Cultural/Historic preservation
 - This seems consistent with the federal process (section 106)
 - Clarify on page 19 the exemption for rock sales
 - Findings are important, Clark County proposed ordinance has highlighted that increased thresholds may mean higher risk

BREAK was taken at 11:00.

General discussion. Neil identified several specific topics to focus the discussion.

1. Lands covered by water:

- Rule based exception needs to be reviewed from county standpoint; with new SMP updates what is missing?
- Support modernizing and narrowing terms; need to document findings
- Support the lands covered by water exception; add something to address wetlands addition, farming with wildlife provisions
- SEPA doesn't add anything for this topic, e.g. docks for single family residential

- SMA is a zoning law, doesn't provide adequate protection
- 2. Deletion of exemption for clearing/grading
 - Thought this was addressed with previous change
 - Environmental community concurs but doesn't like 1000 cubic yards
- 3. Habitat restoration
 - Why five acres specified?
 - How are habitat restoration areas defined?
 - Look at the language in HPA statute
 - Concerns about "stupid" habitat restoration projects
 - Need language to "massage" the potential conflict with protecting ag lands
 - Needs more work, look at definitions in SMA and in RCW 77.55.181
- 4. Agriculture issue
 - Step back and ask: does this make it harder for ag uses to operate?
 - Should include "adjacent to" ag lands
 - If we're adding limits, how does this meet intent of 6406?
 - There's a tension between the two bills [6406 and the ag bill - 6082]
 - 6082 was about modernizing the question, not saying we need more SEPA review
- 5. Definition of industrial use
 - Be sure to get input from clean air agencies
 - Does this decrease exemptions?
 - Definition is too broad
 - Problems with this definition; some cities don't differentiate between industrial and commercial; suggest not defining industrial
 - Ask agencies using SEPA about this
- 6. Minor code amendments
 - Dozens of different types of permits; what about code interpretations, for example?
 - Instead of naming permits, focus on the underlying actions
 - Strong objections from environmental representative
 - Too many jurisdictions plan by using CUPs

Other general discussion topics:

- Consider allowing additional exemptions by local ordinance
- Language regarding demolition [in (f), page 5] would eliminate Seattle's ordinance, would capture too much
- Opposed to mixed use being additive
- Dredging, a lot of dredging could occur with 50 cubic yard exemption
- Local governments want parity with state agencies regarding dredging
- What about toxic material with dredging?
- Regarding RCW 43.21C.450 – code projects – are we updating?
 - Yes, Ecology will review
- Language exempting re-routing of minor recreational trails [page 9] could be subject to abuse

Meeting adjourned at 12:50 pm.