

**SEPA Advisory Committee Meeting Notes  
August 14, 2012**

**Welcome and Introductions/Ground Rules**

Brenden McFarland, Section Manager for Ecology's SEA Program Environmental Review Section, welcomed the committee and observers. He introduced Ecology's team – himself, Tom Clingman (Program Policy Lead), Fran Sant (SEPA Rule Coordinator), and Neil Aaland (Facilitator). Neil then took over facilitation responsibilities and gave some background on his experience related to SEPA. Committee members did the same. Neil reviewed the proposed ground rules; he noted that we will strive to reach consensus agreement if possible, but if not possible Ecology has to adopt a rule and will have to make decisions. Participants did not offer any additions or changes to the ground rules.

**Fundamentals**

Each primary committee member presented their statement of interest. A short summary of the main points addressed follows:

- Mary Rossi/Mary Thompson (cultural resources):
  - Notification is a major issue. SEPA/GMA/SMA all provide venues for early notification. It is in the interest of all project proponents to ensure early attention to meeting cultural resources protection requirements.
  - Want to see proponents answer question #13 on the checklist
  - They will reach out to tribes (but are not intending to speak on behalf of tribes)
- Claudia Newman (environmental/community):
  - Appeal process is very important
  - Understand the need for streamlining but want to ensure impacts are disclosed and understood
  - This needs to be data-driven
- Dick Settle (business):
  - 6406 was a remarkable example of cooperation
  - SEPA and NEPA were adopted as “stopgap” measures, intended to serve until other regulations were developed and in place
  - A lot has happened since the 1983 reforms, including passage of GMA
- Pamela Krueger (state agencies):
  - She echoes Dick Settle's observations
  - She will coordinate among all interested state agencies
  - She handed out an initial list of issues developed by the state agency caucus
- Clay White (counties):
  - Projects/impacts are different depending on size and location
  - This originated at the 2010 planning director's conference in Chelan
  - Streamlining of SEPA isn't new, efforts happened in 1981, 1995, 1997 among other
- Allen Rozema (agriculture)
  - His organization is focused on preservation of farmland
  - Want parity – protect agricultural resources AND other critical areas
  - In favor of streamlining; interested in how exemptions help farms adapt to changing markets
- John Marvin (tribes):
  - Concerned about potential erosion of laws affecting natural and cultural resources

- Agrees about keeping exemptions in context; in cities more intense development can be okay, perhaps not in a floodplain
- SEPA is often the only opportunity to participate; want any changes developed here to be based on data
- Scott Kuhta (cities):
  - Modifications can be made that will sustain environmental standards
  - 90% of his city's environmental reviews result in DNS's
  - Must address the legislative intent to raise exemption levels
  - Decisions to raise levels should not be dependent on use of other SEPA tools – e.g. infill exemption, planned actions

Neil Aaland then reviewed the proposed schedule and topics for each meeting.

Tom Clingman (Ecology SEA Program Policy Lead) presented an overview of the legislation driving this amendment process and a “discussion framework” document he prepared. Discussion points:

- Although it's important to look at data, also need to be careful – give appropriate caveats, understand limitations
  - The wording of the legislation is that maximum exemption levels must be raised for existing types of minor new construction projects; but there is not uniform agreement around the table that this also includes raising the maximum threshold levels for all types of projects in the land-use planning locations that are required to be “established” in the rules.
  - [Ecology staff will explore this issue with the AAG advising them on this amendment process]
- There is guidance in the statute – RCW 43.21C.240
- Some other items should be addressed, such as clarifying that CUPs don't require review unless the underlying action requires review

### **Substantive Discussion**

Following a break, the advisory committee began discussing the topics for today's meeting:

- Maximum levels for flexible thresholds
- Differing thresholds based on location (city, UGA, unincorporated GMA county, unincorporated non-GMA county)

Discussion points included the following:

- Concerned about waiting to deal with exceptions; for example, the exceptions for license governing air and water might need to be addressed sooner as they are triggering SEPA review for minor projects that are otherwise currently exempt
- Consider having findings required to use higher optional threshold levels
- A finding should be needed that a city/county would state – these types of uses won't have an impact; increase in threshold will not have a significant adverse impact
- Some agree that addressing exceptions to exemptions can wait till phase 2 of the rulemaking
- Public notification needs to be discussed at the same time as raising exemption levels
- If the legislation requires exemption levels to be raised in all locations, consider outside of GMA counties only doing slight increase, do the increases primarily in GMA counties/cities/UGAs
- Concern about levels being raised arbitrarily
  - Although some level of arbitrariness will be involved

- Agree with distinction between GMA and non-GMA jurisdictions
- Maximum levels need to be raised substantially in GMA jurisdictions
  - Not necessarily, statute doesn't say that
- Not helpful for this committee to take a stand on "substantial increase"; focus on identifying the approach to take
- What is the paperwork required; keep hearing that this is a problem for cities/counties
  - Can we help cities and counties reduce that paperwork?
  - Real world example: it's a timing issue on smaller projects, can take extra 6 weeks to get a small project through the SEPA process (issuance of DNS, waiting for appeal period to run)
  - Building permit for commercial building in urban area may not require comment period, but if SEPA involved can add time
- Two ways to handle local ability to raise thresholds and make findings:
  - Cities/counties do this in their own SEPA procedures ordinance
  - Authorized to raise if they meet certain requirements; specify those requirements
- How do local citizens have their say? A local ordinance, which can be challenged
- Consider having non-GMA jurisdictions not able to access the top maximum threshold
- DNR has customized checklist and guidance, they pre-identify places where they have protection under regulations
  - Local governments could pre-identify checklists with information; question could be "is there any other impact not addressed by regulations?"
- Some jurisdictions already do that
- Maximum levels should not go into effect unless a jurisdiction adopts them
- This discussion illustrates the importance of notice; one solution is to increase notice requirements even for projects categorically exempt
- There are three categories of current public notice requirements
  - No notice for permit, no SEPA notice
  - No public notice but SEPA notice required
  - Underlying permit requires notice AND SEPA required
- Need to be careful, adding notice adds time
- Need to fix ordinances if major impacts occur; perhaps every 5 years a jurisdiction reviews and re-certifies that the regulations are adequate to justify the higher threshold
- This Advisory Committee should consider identifying some different subcommittees to tackle issues between meetings, accessible to any member who wishes to participate
- One idea is to have existing maximum as the base level, then to go further have to adopt findings
- Legislation seems to authorize changes in maximum but not base
  - Disagree with that – legislative change is to look at all of exemption levels, a framework is important
    - Default level
    - Levels for cities and county UGA
    - Levels for rural areas
- Consider just going with the minimums for phase 1
- The exceptions are causing problems
- Don't underestimate the impacts of economic despair when jurisdictions make choices

## **Conclusions/Wrap-up**

1. Fran Sant will send out a blank form for members to fill out proposing maximum threshold levels for flexible thresholds. The idea is for each member to confer with their alternates and other stakeholders in filling out the form. The due date will be August 30.
2. Three subcommittees will be convened prior to the next meeting. There was some support for addressing Exceptions and Notification in the first phase of rulemaking, as they are directly linked to the thresholds for minor construction projects. There were also concerns expressed that these additional topics could thwart achieving the minimum action required by the deadline set in the legislation. It was agreed that we will explore Exceptions and Notification in workgroups and then decide whether it is feasible to include revisions to them in this round, or put these on the parking lot for the second round of rule update.

The three ad hoc subcommittees are:

- Exceptions
- Notification
- Findings Required for Higher Exemption Levels