

2012-2014 SEPA Rule Amendments

Public Hearing
December 4, 2012

Agenda

- Brief description of SEPA
- Overview of Legislation and Rulemaking Direction
- Review proposed draft language for rule amendment
- Questions

- Start of public hearing

Overview of SEPA

- State Environmental Policy Act of 1971
- Governmental agencies must consider environmental impacts when taking an “action”
 - “Action” includes a decision to issue a permit
- Agencies may use SEPA supplemental authority to condition a permit
 - Applies when existing regulations don’t provide authority needed to address an impact

How does SEPA work?

- Determine if SEPA is required
 - Review the “categorical exemptions”
- Identify the SEPA lead agency
- Evaluate the proposal
- Identify impacts, alternatives, mitigation
- Issue a DNS, MDNS or DS/EIS
- Consider feedback
- Complete the review process
- Make an informed decision

SEPA Provisions in SB 6406

- Result of multi-year effort
- Original impetus: Planning directors
- Broad agreement developed:
 - Too much unnecessary process in SEPA
 - SEPA needs modernizing in light of GMA et al
 - Reform will not reduce protection of natural and built environment
 - Notification: Reform will be equal or better

SB 6406 SEPA revisions effective July 10, 2012

- **Planned action:** clarification
- **Infill exemption:** More sideboards
- **Nonproject actions:** Exempts most development regulation updates by local agencies
- **Checklist:** allows agencies to Pre-answer questions
- **Exemption construction thresholds interim relief** (*expires with rule*) Local gov't “may apply the highest categorical exemption levels ... regardless if the city or county has exercised its authority to raise the exemption levels

SEPA rule updates: Section 301

Legislation sets up two rounds of SEPA rule updates:

- A narrowly-focused initial round due by 12/31/12; and
- A broad SEPA rule update due 12/31/13 to integrate SEPA with GMA.

Additional topic for staff and advisory committee: Improve **public notice** through “SEPA and other means.” Specifically directs attention to notice to tribes.

Section 301 categorical exemption increase

Scope per statute:

- Increase basic “minor construction” types in WAC, plus new multi-family category (WAC 197-11-800(1))

Must consider differing thresholds for:

- Incorporated cities
- Unincorporated UGAs
- Fully planning counties outside UGAs; and
- Counties that are not fully planning under GMA.

Also electrical facilities (WAC 197-11-800 (23)(c))

Proposed Changes to SEPA Rules – Phase 1

- Establish separate flexible exemption thresholds for GMA and non-GMA planning jurisdictions
- Revise the process that local governments follow in adopting flexible SEPA exemption thresholds
- Revise and clarify language related to the “residential”, “parking lot” and “landfill and excavation” categories of minor new construction
- Increase the threshold for SEPA review of electric facilities
- Changes to environmental checklist

Table – Flexible Threshold Maximum Levels

Levels	Fully Planning GMA Counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential [# of units]	30	20	20
Multifamily residential [# of unit]	60	25	25
Agricultural [sq ft]	40,000	40,000	40,000
Office, school, commercial + parking [sq ft + # of spots]	30,000 + 90	12,000 + 40	12,000 + 40
Landfill or excavation [cu yds]	1000	1000	1000

SEPA checklist changes

- Lead agencies may revise the checklist to add a description of their own regulations or plans that they believe adequately address environmental impacts
- Electronic submittal of the environmental checklist, including electronic signature, is explicitly authorized

Contact information: SEPA rule update

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