

2013 SEPA Rulemaking Topics, State Agency Caucus¹
Preliminary List for December 20, 2012 SEPA Advisory Committee Meeting

Topics related to Categorical Exemption Thresholds

Topic	Principle
Agency interpretation of exemptions (DOT) (WAC 197-11-800)	Utilize existing agency SEPA procedures as a way to determine how resource agencies have viewed resource protections with their own actions. Use those procedures as a mechanism to inform updates to other thresholds in -800.
Cultural resources (DAHP)	Limit use of exemptions when there is no evidence of local agency information sufficient to determine likelihood of cultural resource impacts.
Documentation of applicability of categorical exemption (DNR)	Add rule clarifying what a lead agency must do to document the applicability of a categorical exemption to a proposal, including method of considering WAC 197-11-305.
Exceptions to Exemptions (Parks)	Address scope, including critical areas limitation at WAC 197-11-908.
Fill and Excavation Exemption – create exception related to sensitive resource impacts (DFW)	Address impacts of sedimentation when adjacent to streams; when streams fall below shoreline threshold (20cfs), have small riparian buffers in critical area ordinances, or are adjacent to steep slopes.
Lands covered by water exception (DNR) (Parks)	Update and clarify its scope to maintain environmental protections while recognizing other environmental permitting protections.
Motorized trails (WAC 197-11-800(24)(g)) (DNR)	Add minor repair, maintenance, and re-routing of motorized recreational trails in scope where there is no material change (i.e., net increase in length or change in use) and not on lands covered by water.
Organization of exemptions (DNR)	Divide exemptions into those that relate to activities and those that relate to permits or approvals to aid in clarity of applicability.
Parking (WAC 197-11-800(1)(b)(iv)) (DNR)	Remove ambiguity created with use of term “standalone” that focuses on concept that exemption is intended to cover parking lots that are not associated with a structure.

¹ Parks, Commerce, DAHP, DFW, DNR, DOT. Please note this list relates to all topic received by State Agency Advisory Committee Member P. Krueger on or before 12/12/12. Details are to be provided during 2013 Advisory Committee meetings. These topics are not provided in any order of priority, just alphabetically.

Topic	Principle
Recreational trails (new) (WAC 197-11-800(1)(b)(iv)) (DNR) (Parks)	Authorize construction of new recreational trail when in an existing trail system up to a designated threshold (not expected to involve PSAI).
Structural change to categorical exemption approach (DOT)	Threshold should relate to potential for impacts rather than type of activity. Instead of identifying level of development, identify level of impact (use traffic impacts, and likely impacts to cultural resources as the model). Can other impact thresholds be developed?
Timber sales exemption (WAC 197-11-830) (DNR)	Expand timber sales exemption authority to rock sales.
Utility Exemption (197-11-800(23)) – limit exemption scope or create exception for sensitive resource impacts (DFW)	Address potential for impacts to fish, wildlife, and habitat (i.e., identified in critical area ordinances or identified priority habitats).
Utility Exemption (WAC 197-11-800(23)) (DNR) (Parks)	Address potential for linear routes to cross sensitive natural resources and bifurcate large swaths of state land management blocks.

Topics related to SEPA / GMA Integration

Topic	Principle
Assessment of what is needed (DOT)	The highest priority for the 2013 rulemaking effort is to identify how existing protections, provisions, and practices in local government duplicate SEPA requirements in order to determine what changes are needed to existing GMA processes for better integration.
Notice (DOT)	Improve notice procedures and ensure notice and comment provisions of SEPA are present for GMA considerations.
Notice to state agencies (DNR)	Increase notice requirements to state agencies for proposals that relate to their respective authorities during GMA planning phase, to enable early participation.
Subarea planning process (Commerce)	Increase efficiencies integrating SEPA review with the overall project permit process (recommend creating a work group including local planners to detail each step of the local permitting process and how SEPA procedures are included).

Topics related to Minor Code Amendment Exemption

Topic	Principle
Retaining protections (DOT)	Need to make sure that any minor code amendment change does not involve actions that might affect substantive standards respecting use or modification of the environment (similar to WAC 197-11-800(19)).

Other Topics

Topic	Principle
Checklist uniformity (DNR)	Avoid changes to the SEPA Checklist that would result in a myriad of different versions from lead agencies across the state.
Nonproject Checklist (DFW)	Create separate list of questions for different types of nonproject actions that are more relevant to the type of nonproject action, i.e., for rules and regulations and for plans separately (see attached examples).
Nonproject Checklist (DNR)	Need for clarity on what information is to be supplied with nonproject checklists given 2012 change, relating content to elements of environment that could be affected in this context. Also, create effective and clear way to analyze a nonproject proposal (see attachment).
Rule definitions (DNR) (Parks)	Consider adopting clarified definitions for: “authorized public use”(800(5)(b)) (consider other SEPA rule definitions for this one, i.e., (WAC 332-52-010, 352-11-040); “recreational site”(800(24)(g)); “minor repair or replacement of structures” when involving water (800(3)); “abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety” (800(12)(d)); “basic data collection” (800 (17)); “procedural actions” (800(19)); “establishment of natural area preserves” (800(24)(j)).
Section 301(4)(ii) of SB 6406	Implement bill notice intent for state agencies and other interested parties.