

**Washington Department of Ecology**  
**December Legacy Pesticides Working Group Virtual Meeting Summary**  
Thursday, December 17, 2020 | 1:30 p.m. – 3:30 p.m.

Action Item	Responsibility	Deadline
Submit comments on final report to Lisa Parks.	Working Group	Friday 1/8
Contact Jill Scheffer about the possibility of creating an informal group to discuss Public Outreach and funding.	All	Jan 31, 2021
Distribute summary notes and/or poll	MFA/ Ecology	1/8

### Welcome

Facilitator, Joy Juelson with Triangle Associates, welcomed the group (see list of attendees at the bottom of notes) and requested brief introductions. The facilitator reviewed the meeting agenda. MFA would be presenting their final report, the LPWG would provide feedback on the final recommendations, and Ecology would discuss workable solutions and next steps.

The Facilitator provided a brief overview of the Legacy Pesticides Working Group (LPWG) timeline and process for the past year and acknowledged everyone’s work throughout difficulties caused by the pandemic. The facilitator confirmed that everyone in the group had received the final report and materials. One member noted they did not receive the report ahead of time and a link to the report was added to the chat feature and emailed after the meeting.

**Final Report Presentation** – Lisa Parks, Maul Foster Alongi (MFA) gave a presentation of the Final Report (*presentation is available here:* [https://www.ezview.wa.gov/site/alias\\_1962/37613/legacy\\_pesticide\\_working\\_group.aspx](https://www.ezview.wa.gov/site/alias_1962/37613/legacy_pesticide_working_group.aspx)). Following the presentation, meeting attendees were invited to ask questions and provide comments on the report’s content.

Input was as follows:

- How are short plats included when they are SEPA exempt and would only therefore be voluntary?
  - Lisa: We would ask a short plat developer to review the model remedy, do minimal testing, and incorporate their chosen remedies such as soft/hard capping, plat notes and CC&Rs in their application materials. Then, prior to final plat approval, they submit a remedy completion report to the local government documenting what they have done. If the developer follows Ecology’s guidelines, they will not need Ecology’s oversight throughout the proposed process. The authority to require this of short subdivisions (that are exempt from SEPA) comes from RCW 58.17.110.
  - Member disagreed that their local jurisdiction has authority to require developers to require these items. Was not comfortable requiring these items on SEPA exempt processes but would be happy if developers did them voluntarily.
    - Two other members agreed with this comment.
- Please explain “Notice to be provided for a Building Permit application”.

- Lisa: Larger multifamily development projects, particularly those subject to SEPA, sometimes require full administrative review, including a notice of application. Permits for houses falling outside SEPA might not require notice. The recommended approach allows for model remedies to be incorporated into all types of residential construction, including non-SEPA projects.
- What is the paper trail for purchaser to review in the future?
  - Lisa: Through the proposed process, the required plat notes and CC&Rs ensure that prospective owners have the chance to see what assessments and remedies have been completed on the property. Content of the seller's residential disclosure form is specifically outlined in Washington law. To include additional, required language on that form, there would need to be a change in legislation.
- 20-acre segregation should be addressed.
  - Lisa: Exempt large lot segregations are not addressed in the recommended approach because they are, by definition, exempt from any subdivision review process. 20-acre segregations would need to voluntarily implement components of the model remedy.
- Covenants, Conditions and Restrictions (CC&Rs) and plat notes are not required for multi-family units unless there is an underlying plat, or the units are somehow segregated or separated for ownership.
  - Lisa: Correct. The recommended approach encourages local governments to ensure future developers/contractors are specifically made aware of CC&Rs and plat notes that exist where they are implemented (in the future) as part of the model remedy.
- Agreed with first comment. Was not comfortable on local government's ability to require testing and remedies.
  - Lisa: The presenter clarified each local government would need to work with their attorney to understand what items could be required and what items would need changes in their local regulations before being implemented. The recommended approach relies on local governments as partners for dealing with projects that fall outside SEPA to ensure issues are identified and addressed upfront. Then, everyone involved would be able to understand if potential issues are manageable at the beginning of the process.
- For SEPA exempt processes, we can identify where in the process to insert info or an action. Member agreed that the local government has authority to require assessment in process and that local partnerships would allow issues to be identified.
  - There is regulatory authority through local ordinances for local jurisdictions to bring this assessment process up. We can identify where local organizations can process this regulation through their local regulations. This enables people to get through the process without Ecology.
- When Ecology establishes a standardized process, it will be easier for staff and residents to do identification and remediation. Leaving Ecology out, in a legally defensible way, will be best for everyone.

To conclude the question and comment period, the presenter noted that comments can be submitted during the comment period (until 1/8). Any other questions or concerns on the Final Report can be submitted to Lisa.

Valerie noted that MFA's recommended approach for managing legacy pesticides differs from processes in other parts of Washington State. The goal of this proposed approach is to simplify the process for

participants and limit Ecology's involvement where possible. A long-term goal is to set up a standardized process that is feasible for local jurisdictions.

### **Final Recommendations to Ecology: Round Robin**

The facilitator led a round robin asking LPWG members for their recommendations, comments, and concerns regarding the Final Report.

- Recommend the process follows best practices and include statements on health risks and measures to address them.
- Nothing else to add.
- Member was concerned about increases in cost and impacts to affordable housing. They added that standardization can help reduce the costs in the process. They would like to see more work done in the report clarifying the definition of a qualified professional. Additionally, since we are making recommendations out of the report to local jurisdictions on enforcement for short plats, then it would make sense to provide impact mitigation recommendations outside of allowing increased density including Transferable Development Rights and loosening permit requirements to allow more topsoil harvesting.
- Agreed with concerns about impacts to affordable housing.
- Very concerned that some things have not been thoroughly addressed in the proposed process. For example: Where do we source clean soil and what is the process to move it to remediation sites? Does not see anything in report on bioremediation. Needs clarification on date final comments need to be submitted.
- What is the status of draft SEPA language?
  - Lisa: Appendix C contains some sample language. Comments are welcome. Additional language that could be submitted to a lender going through the mortgage loan process is also included.
- Thanked authors for including a map showing where clean soil is. The member suggested to overlay this map with land use classifications to see if these classifications allow clean soil sourcing. Additionally, they highlighted the need to consider how costs and burdens of the policy are allocated. For example, a farmer doing an assessment might bear a larger cost through a depreciation of their land value due to potential contaminants. If assessment and documentation are required, member would like potential consequences to land-owners to be considered and identify ways to rectify impacts to the public.
- Wanted the remediation process clarified for Ecology surface water and for Ecology's erosion control permit regarding sites with legacy soils. Who is responsible that best management practices are installed early in development process and where can it be clarified in the report?
  - Follow up on certification from Ecology, especially with SEPA exempt projects.
- Where do safeguards for protecting worker fall? LNI or Ecology? Regarding the recommendation that all fruits and vegetables should be washed, he asked for clarification for areas with mitigation. Are these products still hazardous if washed? Is all fruit contaminated? Through these questions, member warned authors to be very careful about the language of the report and be aware of impacts to growers, especially if the language makes buyers fear that farm goods are contaminated.
  - The presenter clarified that worker protections do fall under LNI.
  - Member request for extension of comment period.
- Nothing else to add.
- Agreed with previous comments about local jurisdictions ability to mandate the proposed process.

- Appendix B includes draft model remedy, but member needs time to review it. Request for citations to refer people to local procedures and show people where requirements are housed.
- Received document after not initially receiving. Will comment.
- See written comments sent to Lisa.

### **Ecology's Next Steps**

Valerie Bound with Ecology gave a presentation regarding some of the workable recommendations she is seeing from LPWG and included in the final report. She noted that the model remedy is workable from Ecology's perspective. She identified next steps and options for a feedback loop, described below, to ensure the proposed process is working.

Ecology's important notes and next steps:

- Online mapping tool will be the first thing to roll out. It would work the same as the demo. Any address can be entered, and it would show if a property is located on an old orchard.
- Initial sampling would continue to be provided at no cost. Model Remedy guidance will be provided.
- Community outreach will begin (nothing in-person due to COVID) to increase awareness of the topic and remediation efforts.
- Local governments will be provided document materials and guidance for the pre-application meeting.
- Real estate, lending, and title companies should be aware that they may get increased inquiries about the issue. Ecology will make sure they are aware of the online mapping tool, disclosures, certifications, plat notes, and CC&R's.
- Ecology has several funding venues for projects and programs implementing clean ups.
- Ecology wants continued feedback to know if the process is working. Members encouraged to reach out to Ecology about how things are working. They may receive a survey or other follow-up efforts to evaluate the process.

### **Closing**

Jill Scheffer, Ecology: Requested members to contact her if interested in being part of an informal group that continues to engage with Ecology regarding on public outreach and education.

Lisa Parks, MFA: Please send written comments to Lisa. Lisa invited members to call her directly to discuss any issues or questions. Please request number from Triangle if needed.

Valerie Bound, Ecology: Thanked everyone for their time and commitment.

The facilitator reviewed the timeline and finalization of the summary notes and the review period for the final report.

- Final report comments submittal date is Friday, January 8.

The facilitator adjourned the meeting was adjourned at 3:30 pm

### **Group Member Attendance (in alphabetical order by last name)**

- Stephen Bishop, Realtor for Premier 1 Properties
- Jim Blair, Title/Escrow for North Meridian Title & Escrow

- Joseph Calhoun, City of Yakima Planning Manager
- Joan Davenport, City of Yakima Community Development Director
- Jon DeVaney, Washington State Tree Fruit Association
  - o Raine Haas participated on Jon's behalf
- Glen DeVries, Community Development Dir. for City of Wenatchee
- Dean Emanuels, Chief Appraiser and Environmental Risk Manage for Washington Trust Bank
- Doug England, Commissioner of Chelan County
- Craig Gildroy, City of Chelan Planning Director
- Keith Goehner, Representative of the 12<sup>th</sup> Legislative District
- Phil Hoge, Yakima County Project Planner
- Rob Jammerman, City of Wenatchee Public Works Director
- Paul Jewell, WA State Association of Counties Policy Director
- Curtis Lillquist, Douglas County Principal Planner
- Ryan Mathews, Fulcrum Consultant
- Jake Mayson, Central WA Home Builders Association Government Affairs Director
- Deb Miller, Action Health Partners
- Don Mounter, Pipkin Construction Project Manager
- Judy Warnick, Senator of the 13<sup>th</sup> Legislative District

**Ecology Staff/Consultants/Facilitation Team:**

- Joy Juelson, Triangle Associates
- Alex Sweetser, Triangle Associates
- Valerie Bound, Ecology
- Jill Scheffer, Ecology
- Jeff Newschwander, Ecology
- Jim Maul, MFA
- Kate Elliott, MFA
- Lisa Parks, MFA
- Phil Wiescher, MFA
- Mike Kaputa, Chelan County Natural Resources (MFA Contract Manager)