BUILDING INDUSTRY ASSOCIATION OF WASHINGTON
CHAMPIONS OF AFFORDABLE HOUSING

P.O. Box 1909 I Olympia, WA 98501
360.352.7800 I www.BIAW.com

May 20, 2013

Washington State Department of Ecology
SEPA
Brenden McFarland
C/O Fran Sant
PO Box 47703
Olympia, Washington 98504-7703

RE: 2013 SEPA Rulemaking – Exemptions draft proposal, May 3, 2013

Mr. McFarland:

On behalf of the Building Industry Association of Washington (BIAW), thank you for the opportunity to comment on the draft proposed rule language provided to the SEPA Advisory Committee on May 3, 2013.

During the 2012 rulemaking, the DOE decided to create "ceilings" for local jurisdictions to adopt instead of increasing the categorical exemptions. While we still question that interpretation, we encourage the DOE to get the proposed ceiling correct.

BIAW, like many others in the business community, is concerned about the lack of the direction in the Department of Ecology's SEPA 2013 rulemaking. As directed by E2SSB 6406, Ecology is required to increase categorical exemptions. BIAW echoes the comments by the Association of Washington Business in regards to the process and requirements for stakeholders to provide justification for exemption increases. E2SSB 6406 directly mandated that the DOE increase exemptions, thus it is the DOE's responsibility to do so. We also share concerns that other environmental protections in statute and rule were not reviewed to use as context for categorical exemption increases.

BIAW is pleased with the proposed changes to **197-11-176** that specifically defines wetlands and notes that irrigation and drainage ditches and landscaping that are unintentionally wetlands as a result of construction of roads are not to be considered wetlands. This is a step in the right direction.

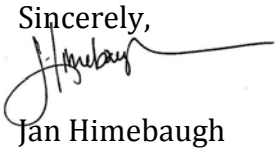
BIAW is very concerned and opposed to the changes proposed to **197-11-800(C)(1)(b0(v),** which completely removes the landfill or excavation exemption. The DOE was directed to increase categorical exemptions, not to tighten the standard in which small projects can be exempt. BIAW agrees that grading and fill for exempt minor construction should be exempt regardless of the grading/fill size, but removing the exemption for grading and fill projects not associated with minor new construction is not

increasing categorical exemptions. DOE was not given the authority to remove categorical exemptions in E2SSB 6406. This exemption should be retained and not removed as homebuilders, home owners, and others use this exemption for reasonable activities such as landscaping and vehicle access. Removing this exemption is contradictory to the Legislature's direction to increase exemptions. BIAW encourages DOE to reinsert the landfill and excavation exemption.

BIAW appreciates the addition of the boundary line adjustment to the land use exemptions in **197-11-800(G)(6)(b**). DOE should ensure that this addition to land use exemptions is not construed to exempt only BLAs where "special circumstances" exist.

Thank you again for the opportunity to comment. If we can be of any other assistance in the 2013 SEPA rulemaking process or if you have any questions in regards to our comments, please let me know.

Sincerely,



Jan Himebaugh
Government Affairs Director