2013 SEPA Rulemaking Advisory Group
Categorical Exemptions Issue Tracking

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
***Exceptions to Exemptions* (Parks)**	908	Revisit and clarify critical area provision for "opt-out" of exemptions	
Exceptions to Exemptions (counties, business)	800(1)(2)(3)(6)(23)	Revisit exceptions for *Lands Covered by Water, Rezones, Air & Water Discharge permits* • projects undertaken wholly or partly on lands covered by water. Clarify what this means in light of overall purpose of rule-making to update categorical exemptions in light of numerous programs directly regulating impacts on environment • Projects that require rezones. Clarify. • Projects that require air emission or water discharge permits. Air permits are routinely required for any building demolition that are usually necessary for small infill development that is encouraged by GMA but often opposed by neighbors.	
***New Exception to Exemptions* Cultural Resources (DAHP and cultural resources Advisory Group members)**	800	Unless Cultural Resource Management Plan is incorporated into the local Comp Plan, *or* a Local ordinance or development regulations address pre-project review and standard inadvertent discovery language (SIDL), *and* a DAHP Data-sharing agreement is in place. Then, there is an exception to project-level exemptions if any of the following apply: 1) No prior negative survey on file. 2) Ground disturbance proposed. 3) Project is not in 100% culturally-sterile fill. 4) Existing structures are older than 45 years old; *and* eligible for or listed in any historic register or historic survey.	
***New Exception to Exemptions* Related to sensitive resource impacts (DFW)**	800(1)	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.	

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
		This exception could just apply to fill & excavation projects.	
New ***Exception to Exemptions*** **Utility projects (DFW)**	800(23)	Address potential for impacts to fish, wildlife, and habitat (i.e., identified in critical area ordinances or identified priority habitats).	
New ***Exceptions to Exemptions*** **Agricultural lands of long term commercial significance**	800	Exempt projects undertaken wholly or in part on agricultural lands of long term significance as defined by RCW 36.70A should no longer be exempt from SEPA. Due to continuing losses of farmland throughout the state the legislature declared that it is now the policy of the state to identify and take into account the adverse effects of actions on the preservation and conservation of farmland (RCW 43.21C.011) Depending on project size / design / construction and/or maintenance practices employed, currently exempt projects have a potential to negatively impact drainage, access and farming practices of the subject property as well as adjacent properties. An approach to review and exempt levels of impact to agricultural resources will bring parity to the protection of both agricultural and environmental resources without arbitrarily exempting specific types of projects.	
Non-Project Actions **Minor Land Use Decisions (counties, business)**	800(6)	Clarify the relationship between the exemption for minor new construction of single family residences and the minor land use decision exemption for only short plats.	
New ***Non-Project Actions*** **(cities)**		Boundary line adjustment, Fence heights Side-yard setbacks	
New ***Non project Actions*** **minor code amendments (counties)**	800 (20)(21)	Consider additional exemptions for minor code amendments and other non-project actions likely to have an adverse environmental Impact.	

2013 SEPA Rulemaking Advisory Group
Categorical Exemptions Issue Tracking

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
Non-project Actions **Minor Code Amendments (WSDOT)**	800 (20)(21)	Consider exemptions for minor code amendments that are procedural and do not involve actions that might affect substantive standards respecting use or modification of the environment – Similar to WAC 197-11-800 (19).	
Project Actions **Other minor new construction (cities)**	800(2)	Increase size of underground storage tanks and add exemption for above-ground tanks	
Project Actions ***Increase Exemption*** **Transportation projects and commuter facilities *(cities)***	800(2)	Add transportation projects that add automobile lanes and commuter facilities and amenities (not just transit but also regular park and ride.	
Project Actions **Review** **Other minor new construction (Seattle Public Utilities)**	800(2)	This exemption should apply to all agencies and not just public transit. SPU would benefit from the use of this exemption to cover the installation of permeable pavements, catch basins, culverts, and so forth. Explicit clarification that this exemption is not restricted would be beneficial for many SPU projects.	
Project Actions **Revise/update** **Other Minor New Construction**	800(2)((f))	WAC 197-11-800(2)(f): Except for structures or facilities with recognized historical significance, ~~T~~the demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section,~~except for structures or facilities with recognized historical significance.~~ and demolition and removal of the following individual structures: (1) One single-family residence. In urban growth areas, up to three single-family residences may be demolished in a single proposed action under this exemption; (2) One duplex or similar multifamily residential structure. In urban growth areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished in a single proposed action;	

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
		(3) One store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urban growth areas, the exemption also applies to the demolition of up to three such commercial buildings in a single proposed action on sites zoned for such use; (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, pavement, and fences.	
Project Actions **Clarify/update minor new construction** **Fill and excavation**	800(1)	Consider further revisions to avoid confusion on stand-alone landfill and excavations.	
New Project Actions **Mixed Use/Transportation oriented development (cities)**	800(1)	Consider exemption for Mixed use and transportation oriented development.	
Project Actions **Clarify/update minor new construction** **Parking (DNR)**	800 (1)(b)(iv))	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.	
Project Actions **Clarify/update minor new construction (CR 102 public comments)**	800(1)	Consider adding a definition for "multi-family" dwelling. Consider adding the number of trips generated in the new threshold levels, rather than just the number of parking stalls.	
Project Actions **Clarify/update** **Repair, Remodel and Maintenance**	800 (3)	Clarify what kinds of work in water is not exempt, including repair and replacement of shoreline protection structures	
New Project Actions		Consider exemptions for bulkhead removal, soft shorelines, shoreline restoration projects, Consider Exemptions for	

2013 SEPA Rulemaking Advisory Group
Categorical Exemptions Issue Tracking

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
Habitat restoration and small energy projects		small scale renewable energy projects (solar, wind and small hydro)	
Project Actions **Clarify/update Public property transactions**	800(5)	Clarification is needed on the definition of "authorized public use" as it is the test of whether or not a proposal is exempt.	
Project Actions **Increase Exemption Wireless Facilities (Cities, Counties & Industry)**	800 (25)	In response to changes in technology and HB 1183 – if passed during 2013 legislative session.	
Project Actions **Utility exemptions**	800(23)	Increase pipe size from 8" to 12" to reflect need for increased fire flow and industry standards. There is so significant difference between the installations of an 8" pipeline to a 12" pipeline. Similar if not identical excavations and support equipment are used for the installation of both sizes of pipeline.	
Project Actions Utility exemptions (Seattle Public Utility)	800(23)	**WAC 197-11-800(23)(e**): All ~~developments~~ activities within the confines of any existing electric substation, reservoir, pump station, vault, pipe, or well: Provided, that additional appropriations of water are not exempted by this subsection, but that any changes in water flow volumes, rates, and destinations resulting from those activities are exempted. SPU believes the above more realistically captures such projects and recommends adding this new exemption in addition to raising the pipe diameter threshold to 12 inches in this existing exemption **ADD: Pipelines and Conduits in Rights-of-way.** Any project less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline/conduit and associated appurtenances or the inspection, maintenance, repair, restoration, reconditioning,	

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
		relocation, replacement, removal, demolition, or abandonment of an existing pipeline/conduit and associated appurtenances. For purposes of this section, "pipeline/conduit" includes subsurface facilities but does not include any surface (aboveground) facility related to the operation of the underground facility.	
Project Actions **Utility exemptions (DNR) (Parks)**	800(23)	Address potential for linear routes to cross sensitive natural resources and bifurcate large swaths of state land management blocks.	
New ***Project Actions*** **Recreational trails (DNR) (Parks)**	800(24)	Authorize construction of new recreational trail when in an existing trail system up to a designated threshold (not expected to involve PSAI).	
New ***Project Actions*** **Motorized trails (DNR)**	800(24)(g)	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.	
Agency specific exemption **Timber sales exemption (DNR)**	830	Expand timber sales exemption to permits for rock sales.	
Agency Specific Exemptions **Update and clarify existing exemptions (Gerald Steel)**	810-855	Clarify these sections to limit exempt actions to only those named agencies	
New **Documentation of applicability of categorical exemption (DNR)**	Part Nine	Add rule clarifying what a lead agency must do document the applicability of a categorical exemption to a proposal, including method of considering WAC 197-11-305.	
New **Organization of exemptions (DNR)**	Part Nine	Divide exemptions into those that relate to activities and those that relate to permits or approvals to aid in clarity of applicability.	
New **Reorganize and rewrite in plain talk (Seattle)**	Part Nine	A good example of the confusing and unclear language is found at WAC 197-11-800(1) (Minor New Construction), as evidenced by the Washington State Department of	

Subtopic	WAC 197-11	Issue/Idea	Advisory Group Comments and Additional Information
		Ecology's clarification seen at http://www.ecy.wa.gov/programs/sea/sepa/exemptions_minor_construction.html	
New **Agency interpretation of exemptions (WSDOT)**	Part Nine	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.	
New **Structural change to categorical exemptions approach (WSDOT)**	Part Nine	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?	