

## Department of Ecology

### Compilation of Comments on 2012 Preliminary Draft SEPA Rule Amendment

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From: Michael Jones [mjones@cityofblaine.com]  
Sent: Thursday, September 27, 2012 2:01 PM  
To: Sant, Fran (ECY)  
Cc: Alex Wenger; Gary Tomsic  
Subject: SEPA Rule Making Round 1: Preliminary Draft

Ms. Sant:

I have reviewed Ecology's proposed SEPA rule amendments.

As the SEPA Official for the City of Blaine, I support "Proposal B" the optional upper thresholds with no additional procedural requirements. The proposed UGA and non-UGA thresholds seem reasonable. I do not support adding procedural requirements in the exemption process. Adding procedural requirements seems to go against the intent of the legislation. The primary goal of the rule changes should be simplification of the process and project permitting requirements. Increasing optional threshold levels achieves that goal. Adding procedural requirements in the exemption process does not.

Thank you for the opportunity to comment.

Regards,

Michael Jones, AICP  
Community Development Director  
SEPA Official  
City of Blaine - Community Development Services  
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360-543-9981

Proposal B would be a simpler approach. The current upper optional thresholds would be revised with no additional procedural requirements. The "Tier 2" provisions in subsection WAC 197-11-800)1)(c) of the draft WAC would not apply in Proposal B. Instead, the maximum levels listed in existing subsection (c) would be updated to apply within Urban Growth Areas (UGAs) and non-UGA areas as shown in the table below. In this proposed concept, the findings and notice provisions in the draft proposed WAC language would not apply to Proposal B. The proposed revisions to WAC 197-11-800)1)(a) and (b) in this document would apply to both Proposal A and Proposal B.

From: JMachen@bainbridgewa.gov  
Sent: Thursday, September 27, 2012 12:28 PM  
To: Sant, Fran (ECY)  
Subject: SEPA Rules comment

Fran Sant,

I was just reading over the new proposed SEPA rule changes, the one that gave me pause was regarding the notification for SEPA Exempt projects. We process a lot of applications, ie: building permits, mechanical permits, minor land use applications that are exempt from SEPA. We do not issue a statement of exemption like we do with shoreline permits. I worried that we are now going to be expected to issue a formal exemption statement with each of these permits, and now somehow track and transmit that exemption for listing on the SEPA Register. These seem awfully bureaucratic, taking up more valuable time that local jurisdictions don't have.

Thanks for your consideration.

Joshua Machen, AICP  
Current Planning Manager  
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From: LeTourneau, Philippe [Philippe.LeTourneau@kingcounty.gov]  
Sent: Friday, October 05, 2012 4:01 PM  
To: Sant, Fran (ECY)  
Subject: comments on preliminary draft proposed WAC 197-11 revisions

Dear Ms. Sant:

Department of Ecology's preliminary draft proposed revisions to the SEPA administrative rules in WAC 197-11 fail to adequately consider cultural resources, especially archaeological sites. SEPA currently provides little protection of significant cultural resources. In many cases, review under SEPA is the only time that cultural resource issues are considered in evaluating the adverse impacts of a proposed project. To increase the extent of exemptions without improving measures to identify, assess and protect significant cultural resources will make matters worse.

Please add provisions to clarify and strengthen existing measures addressing cultural resources in the SEPA process. At a minimum, project applicants should be required to consult all readily available sources of cultural resource information, conduct surveys commensurate with the

risks entailed by proposed construction, and implement an unanticipated discovery plan (sometimes called an inadvertent discovery plan). The Department of Ecology should work closely with the Department of Archaeology and Historic Preservation to revise the Environmental Checklist, define archaeologically sensitive areas, and develop standardized language for unanticipated discovery plans.

I appreciate the opportunity to comment on the proposed revisions.

Thank you.

Phil

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Philippe D. LeTourneau, PhD  
Archaeologist  
King County Historic Preservation Program  
Department of Natural Resources and Parks  
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Seattle, WA 98104  
206 296-5217

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From: Jori Burnett [JoriBurnett@cityofferndale.org]  
Sent: Tuesday, September 18, 2012 10:31 AM  
To: Sant, Fran (ECY)  
Subject: SEPA rulemaking comments

Good morning. The following are the City of Ferndale's comments regarding proposed rulemaking, in response to DOE's request for input from the Advisory Committee. The City supports the expansion of maximum thresholds, and feels that this expansion of thresholds will enhance the ability of reviewing agencies to focus on SEPA checklists that are meaningful. The development of environmental ordinances over the previous forty years has made many SEPA reviews redundant, but non-lead agencies are forced to review (or not) all SEPA checklists, potentially resulting in inefficient environmental protections/ mitigations.

1. It would appear that there is sufficient time to draft proposed changes to checklist questions as part of the Phase I rulemaking. Should the committee be strongly split on the proposed language, this could be reconsidered. The City would advocate that an effort be made to develop proposed language.
2. The City supports the electronic submission of checklists, and the electronic review of checklists. The City also supports modernizing the SEPA register from a spreadsheet format to one in which the checklist can be reviewed, comments added (and seen by other agencies), as well as a broader "checklist type" description – zoning text amendment, comprehensive plan amendment, earth work, building construction, infrastructure, etc. Such a modifier would allow reviewing agencies to better understand the nature of the proposed activity.

3. The City does not support requiring only circulation of checklists with responses (with the exception of “non-project action” checklists, which are not required for projects). The City does not support this, because in some cases the proponent may have incorrectly completed the checklist, and the jurisdiction may not catch the omission, or may not realize that the information is incorrect. Reviewing agencies should have the benefit of reviewing the full checklist.

4. The City supports the use of a revised/ reduced checklist for non-project actions. There are elements of the full checklist that are legitimately not applicable, but there are other elements that should be reviewed.

5. The City has no opinion on revisions to agricultural lands. If delaying a review of these issues would allow a revision to checklist questions in Item 1 to proceed, the City would support this effort.

Thank you for the opportunity to comment.

Jori Burnett  
Community Development Director, City of Ferndale  
360/685-2367  
2095 Main Street  
Ferndale, WA 98248

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From: Lilith Yanagimachi [Lilith.Yanagimachi@CO.CHELAN.WA.US]  
Sent: Monday, October 01, 2012 1:21 PM  
To: Sant, Fran (ECY)  
Subject: SEPA Comments

WAC197-11-800(1) and – 508: I prefer proposal B

WAC 197-11-315(1)(e): Non-project actions are not required to fill out section B (at least the way we process). The proposed wording is confusing because it leaves it optional to use B or D. I would recommend requiring section A and D for all non-project actions with the recommendation that the applicant or jurisdiction may expand the checklist as appropriate.

Thank you.

Lilith Yanagimachi, AICP  
Planner II, Chelan County  
Phone 509.667.6586  
lilith.yanagimachi@co.chelan.wa.us

From: Griffith, Greg (DAHP)  
Sent: Friday, October 05, 2012 5:31 AM  
To: Sant, Fran (ECY)  
Subject: Comments on WAC 197-11-800 Revisions and Proposal C

Categories: Top Priority

Fran, as you know, the Department of Archaeology and Historic Preservation (DAHP) provided comments on 10/2/2012 to Department of Ecology regarding proposed revisions to WAC 197-11-800. Our comments in that letter addressed Proposals A and B. In addition, the following comments respond to the new Proposal C that was presented at the 10/2/2012 Committee meeting, and as before, are in supplement to comments provided to you by the state agency caucus.

- 1) Since preliminary discussions were first held about streamlining SEPA, an overriding and ongoing concern by DAHP with the process of revising SEPA rules is that there be no net loss and no harm to significant cultural resources. With the introduction of threshold levels for exempted new construction, we see increased potential that loss and harm to these resources may occur. While Proposal C raises the exemption threshold marginally above Proposals A & B, from an historic preservation standpoint, it is a project's location rather than its scale that drives DAHP reviews and recommendations. Therefore, while Proposal C raises the thresholds, we would project to see a commensurate increase in the number of impacted cultural resources as compared to A & B. However, the point to be made here, as before, is that any threshold level raises a concern for DAHP if a commonly held goal of no net loss or harm is to be achieved.
- 2) Another overarching concern is notification. We do not see any language in Proposal C requiring (or even encouraging) the public to be notified of exempted projects.
- 3) Language in Proposal C states that "To establish a new optional exempt level, a city, town or county shall demonstrate that the requirements for environmental analysis, protection and mitigation for the exempt types of development have been adequately addressed in specific adopted development regulations, and comprehensive plans and applicable state and federal regulations." DAHP recommends that it be made clear in WAC 197-11-800, that "environmental analysis" is understood to include consideration of the full range of cultural resources as elements of our environment that are to be addressed.
- 4) The phrase "adequately addressed in specific adopted development regulations, and comprehensive plans and applicable state and federal regulations" in the text also needs definition and clarification particularly as it pertains to cultural resources. As in previous comments, DAHP recommends that "adequately addressed" refers to locally adopted plans, regulations, and ordinances that have been approved by DAHP and interested Tribes.
- 5) Finally, we want to clarify previously circulated recommendations that states that the types of cultural resource "findings" necessary for a project to be SEPA-exempt for archaeology when it can be demonstrated that the site has received a "prior negative survey information

that includes the specific area of the current project and has been conducted within the past five years and is on file at DAHP.”

Thank you for consideration of our comments and recommendations.

Greg Griffith  
Deputy State Historic Preservation Officer  
Washington State Dept. of Archaeology & Historic Preservation  
360-586-3073  
greg.griffith@dahp.wa.gov

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From: Roalkvam, Carol Lee [RoalkvC@wsdot.wa.gov]  
Sent: Friday, October 05, 2012 11:12 AM  
To: Sant, Fran (ECY)  
Cc: Krueger, Pamela (DNR); White, Megan; Regan, Chris  
Subject: WSDOT Comments on SEPA Rulemaking Option C Proposal

Fran Sant  
SEPA Rule Coordinator

Dear Ms. Sant:

Washington State Department of Transportation (WSDOT) staff with SEPA expertise would like to take this opportunity to provide comments on Ecology’s Preliminary Draft revisions to WAC 197-11 as well as Draft Proposal C submitted by an ad hoc group at the SEPA Advisory Committee meeting October 2nd. As your agency works to prepare for the first round of rulemaking, we hope that you will consider WSDOT’s input.

Proposed increased maximum thresholds WSDOT’s primary concern in changing the maximum thresholds of SEPA categorical exemptions is the potential for adverse impacts on state transportation resources. WSDOT, like all the other state agencies, did not have alternate numbers to suggest for categorical exemption maximum thresholds. We hope that local agencies will consider state-managed resources when evaluating proposals – and we are committed to fostering constructive working relationships with local governments for a well-functioning transportation system.

WSDOT regional offices, planning and modal staff work closely with the locals to ensure transportation infrastructure is in place to support proposed projects. While highways are one of our key concerns, we also look out for impacts to the operation of our state managed airports, rail lines, regional transit systems, and connections to ferries and ports. As we have discussed throughout the SEPA reform effort, various scales of development have the potential

to adversely affect transportation systems. More important than the number of units or the size of a building is the location of the development and intensity of the proposed use.

Relevant in this regard is the rationale provided in the City of Seattle's proposed increase of thresholds for infill development and the city's explicit consideration of traffic impacts. This is an excerpt from the City of Seattle's, August 16, 2011 Director's Report and Recommendations for Code Amendments:

RE: Change Environmental (SEPA) Review Thresholds

Simply stated, the State Environmental Policy Act (SEPA) review threshold (categorical exemption level) is the level above which significant adverse environmental impacts are anticipated, which means that a SEPA determination must be made. In the past, Seattle and other jurisdictions counted on SEPA to address topics for which codes did not provide sufficient protections.

As the City's codes have evolved in recent decades, there is less need to employ SEPA authority because other codes effectively mitigate the potential for significant impacts. Relevant policies and codes include: comprehensive plan policies, environmental critical areas rules, shoreline rules, grading and drainage codes, stormwater regulations, parking codes, design review, land use/zoning code, noise codes, transportation mitigation programs, energy code, building code and historic preservation policies. In addition, Seattle's planning efforts are increasingly emphasizing actions that promote infill development in designated growth centers, as favored by growth management objectives in the Comprehensive Plan. In recent years, the State Legislature also has produced a number of bills to streamline SEPA review, adopting legislation in 2003 that allows exemption of infill residential and mixed-use development in urban growth areas from SEPA review.

Seattle's urban centers and station areas meet the criteria for this exemption opportunity, and raising SEPA thresholds, as was more modestly done in 2008, is warranted. ...

The research also indicates that approximately 35 to 40 development projects per year could benefit from the proposed SEPA threshold levels. This is interpreted to be the mid-range of development project sizes in Seattle – the proposed thresholds would still be required for the largest developments. These changes would likely provide an incentive for infill development within these growth areas, due to a reduction in permitting costs, times and uncertainty risks.

Such projects would still be subject to Design Review processes in nearly every case, which would more appropriately help address design-related concerns.

Transportation impacts are the most apparent type of impact evaluation that could warrant continued review, due to the potential for individual future developments' contributions to local traffic congestion and a possible need for future conditioning. As a result, the proposal includes the codification of the City's ability to continue to require a transportation study that

would examine traffic generation and other non-automobile transportation factors. These new rules would continue to allow conditioning of future developments to mitigate identified adverse effects, and would continue to allow an applicant to voluntarily participate in traffic mitigation payment programs that currently apply in the Northgate and South Lake Union areas.

Another reason for the SEPA thresholds to be adjusted is that Seattle has also expanded its efforts to evaluate the impacts of future growth at a subarea level, which provides a more comprehensive perspective about the effects of growth. Examples from the past 10 years include environmental impact statements for broad rezones of Downtown and South Downtown, Northgate and South Lake Union. These evaluations provided a more holistic perspective on growth impacts and fit better with current local and regional growth management perspectives that are advanced by our Comprehensive Plan.

Our region experts examined recent projects that we were made aware of through SEPA documents on new developments in the range of the proposed new thresholds for exempt activities. There are several specific examples where the local agencies and WSDOT agreed on traffic mitigation to address impacts. These developments would be considered exempt under the proposed rules, and without attention to traffic concerns would have resulted in increased congestion and overall degradation of the transportation facility:

- \* Greenbrier Crest II (29 Single Family Residences (SFR) Collected about \$32,000 in Traffic Mitigation fees to a nearby WSDOT project for improvements.
- \* Maple Valley Commons (31,000 SF commercial) - Donated about \$353,000 worth of ROW frontage and constructed \$702,000 of improvements.
- \* Lawson Place (14 SFR) -Donated \$35,500 worth of ROW frontage and constructed \$132,000 of improvements.
- \* Crystal Firs (48 SFR) - Donated \$132,000 worth of ROW frontage and constructed \$188,000 of improvements.
- \* Eagle Heights Plat, in city of Arlington (78 SFR Units) - Traffic Impact Mitigation Fees = \$82,043.01. Project included \$380,000 Construction Improvement for SR 531 frontage improvements, widening & channelization.
- \* Casperson Plat, in city of Arlington (37 SFR Units) - SR 531 Traffic Impact Mitigation Fees = \$38,411.22.
- \* Boeing Dreamlifter Operations Center (21,000 sf commercial space) - \$300,000 Planned channelization improvements for Dreamlifter access road.
- \* Holy Cross Church, Snohomish County (52,000 sf expansion of existing Church) - \$481,000 Construction Improvement for SR 92 widening, channelization and illumination improvements.

A threshold of impact for transportation should be based on number of Peak Hour Trips (PHT) generated by a proposal. Currently, WSDOT requires new developments requesting access to state transportation facilities that generate 10 new PHT to conduct a Transportation Impact Assessment (TIA). However, based on the legislative direction Ecology received with ESSB 6406, we believe a new threshold of 25 PHT for Rural and 50 PHT for Urban areas would catch the

majority of developments that would cause WSDOT and local governments concern. Rather than establishing higher thresholds for transportation impacts through SEPA, WSDOT would be willing to address transportation impacts on the state-owned system at the planning level: perhaps through interlocal agreements or some similar mechanism.

Regarding Ecology's Proposed checklist changes

We would like to add NEPA documentation where logical in the proposed rulemaking. Although rules currently exist for adopting an EA/EIS for SEPA, WSDOT sees the greatest benefit in using Documented Categorical Exclusions in place of a SEPA checklist. Using existing NEPA documents will help WSDOT, Locals working with our agency's Highways and Local Programs, and other SEPA lead agencies to reduce duplication in compliance with SEPA and NEPA. We suggest two areas (in bold):

(d) Projects where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, existing NEPA documentation with sufficient environmental information on the proposal, or other legal authority (see subsection (6) of this section; or.

(6) The lead agency for an environmental review under this chapter may identify within the checklist provided to applicants instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, existing NEPA documentation with sufficient environmental information on the proposal, or other legal authority. A lead agency still must consider whether the action has an impact on the particular element or elements of the environment in question.

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Regarding findings

WSDOT agrees with the state agency caucus position that "the proposed language for WAC 197-11-800 (1) (c) also specify that the city, town or county's demonstration / findings be done specifically for each element of the environment. And, that notice be provided to agencies with expertise and tribes (and the public) when a local government is considering a resolution or ordinance to raise the exemption levels." WSDOT would like to suggest that Ecology consider a 60-day review and comment period, commensurate with 36.70A requirements for GMA development regulations, so that substantive concerns can be adequately voiced and addressed during local decision making on local code amendments.

If you have any questions regarding WSDOT's position on these matters, please don't hesitate to call me.

Sincerely,

Carol Lee Roalkvam

Environmental Policy Branch Manager :: WSDOT Environmental Services  
roalkvc@wsdot.wa.gov :: 360.705.7126

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From: Sundberg, Charlie [Charlie.Sundberg@kingcounty.gov]  
Sent: Friday, October 05, 2012 2:02 PM  
To: Sant, Fran (ECY)  
Subject: Comments on Proposal C from SEPA Rulemaking Advisory Committee

Ms. Sant:

I have been following the work of the SEPA Rulemaking Advisory Committee and have grave reservations about the proposals for expanding SEPA exemptions that are being advanced. Even under its current rules, SEPA provides a very poor, misunderstood and frequently ignored means of protecting significant non-renewable cultural resources and is particularly deficient in protecting archaeological sites. In many cases, review under SEPA is the only time that cultural resource issues are considered in evaluating the adverse impacts of a proposed project.

To increase the extent of exemptions without improving measures to identify, assess and protect significant cultural resources is wrong and is counterproductive, since it would not only destroy such resources but also expand project proponents' exposure to the costs of dealing with "unanticipated" discoveries during construction.

I urge you to reconsider the preliminary draft rule and to add provisions to clarify and strengthen existing measures addressing cultural resources in the SEPA process. At a minimum, project applicants should be required to consult all readily available sources of cultural resource information, conduct surveys commensurate with the risks entailed by proposed construction, and implement an unanticipated discovery plan (sometimes called an inadvertent discovery plan). The Department of Ecology should work closely with the Department of Archaeology and Historic Preservation to revise the Environmental Checklist, define archaeologically sensitive areas, and develop standardized language for unanticipated discovery plans.

Charlie Sundberg

Charlie Sundberg | Preservation Planner | King County Historic Preservation Program |  
201 S. Jackson St., Suite 700 | Seattle, WA 98104 | 206.296.8673

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From: Isaac Conlen [Isaac.Conlen@cityoffederalway.com]  
Sent: Friday, October 05, 2012 3:22 PM  
To: Sant, Fran (ECY)  
Cc: Patrick Doherty

Subject: Draft SEPA Rule Update - Comments

Hi Fran,

Thanks for the opportunity to comment on the draft rule update.

Background: Our perspective is that SEPA review does not add value 99% of the time. This is because, as you are aware, local codes and comprehensive plans have become quite effective at dealing with all the topical areas covered by SEPA, as required by GMA. Therefore, we feel that GMA cities should have the option of choosing to discontinue SEPA review for most projects. By continuing to require a review process that is not necessary, we undermine our credibility (by “we” I mean regulators at all levels within the state) and make it harder to argue that other valid review/permitting requirements are necessary.

Specific Comments: The draft prepared by Ecology doesn’t go as far as we would prefer in raising the exemption levels. We understand, however, that the draft is the result of a collaborative process taking input from a range of stakeholders with widely varying concerns. We would encourage the thresholds to be increased further, but if that is not realistic we are supportive of the threshold levels as proposed

(Version A).

We are supportive of the proposals to break residential into single family and multi-family categories.

We supportive of the clarifications regarding stand-alone parking lots and stand-alone landfills/grading.

We are supportive of the notion that at such time as a jurisdiction chooses to opt to the higher levels, the jurisdiction should be required to demonstrate how other local codes/comp plan addresses elements of the environment covered by the SEPA checklist. We think that is smart as it forces us to identify any gaps that may exist and to address them. We feel, however, that the alternative language presented jointly by the cities, counties, environmental and business community on this topic (requirements to demonstrate environmental issues adequately addressed) is clearer and is therefore preferable. To be clear this is the language that Carl Schroeder has put forward (on behalf of the previously mentioned group).

Again, thanks for the opportunity to comment. Please let me know if you have any questions.

Regards,

Isaac Conlen  
Planning Manager, City of Federal Way  
253 835 2643

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From: Jamie Howsley [jamie.howsley@jordanramis.com]  
Sent: Friday, October 05, 2012 4:19 PM  
To: Sant, Fran (ECY)  
Cc: Jamie Howsley; Egolemo@SGAengineering.com; Avaly Mobbs; Ryan Zygar;  
Art Castle; Jan Himebaugh  
Subject: Building Industry Association of Clark County Comments on SEPA  
Exemptions

Dear Fran:

I am the Government Affairs Director for the Building Industry Association of Clark County and private practice land use attorney with Jordan Ramis, PC. On behalf of the BIA as well as myself personally, I would like to file the following comments:

1. We propose as an overall recommendation that the last exemption related to landfill and excavation only apply to activities that are not tied to another land use approvals. Otherwise you are likely to trigger SEPA regardless of the increased exemption levels across other categories.
2. We also believe that the cut and fill exemption should be increased to 2,500 cu yards, again for activities not tied to a land use approval.
3. Finally, the proposed exemptions for housing and commercial are not high enough and do not meet the legislative intent of Senate Bill 6406. Senate Bill 6406 recognized increased environmental protection in the State of Washington through the passage of things such as GMA, GMA's mandates for critical area protection through critical area ordinance adoption at the local level consistent with best available science, amendments to the Shoreline Management Act, and other protections. The proposed increases amount to minimal changes in light of the additional environmental regulations adopted by the legislature. Simply put, the proposed new exemption limits do not meet the legislative intent of Senate Bill 6406.

To this end we propose the following in the urban areas, both incorporated and UGA unincorporated.

Single Family 80 units.  
Multi-Family 150 units.  
Commercial 60,000 Square feet plus 200 parking spaces.

Thank you for the opportunity to comment on this draft.

Very truly yours,  
Jamie

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From: Jeff Forry [jfforry@shorelinewa.gov]  
Sent: Tuesday, October 09, 2012 2:38 PM  
To: ECY RE SEPA Rule Making  
Cc: carls@awcnet.org  
Attachments: City of Shoreline comments to draft revisions.docx

Thank you for providing the opportunity to comment on the proposed changes to the SEPA rules. We see the legislative changes to RCW 43.21 C and the rules intended to implement them as important tools to assist us in evaluating development to ensure that it is consistent with our adopted plans and regulations.

Attached to this email are some suggested wording changes to the draft for your consideration. We do have concerns relative to the new thresholds proposed October 9, 2012. The thresholds do not take into account the extensive planning that GMA cities must undertake to adopt compliant comprehensive plans and development regulations to implement them. It must be acknowledged that SEPA should not be used to reevaluate inadequacies in development regulations or state and federal laws at the project level. Low thresholds assumes that the regulations are not in place to adequately address development. We are also concerned that the maximum exempt levels do not differ between incorporated and unincorporated areas within UGAs as stipulated in section 301(2) b of SB6406. GMA cities customarily plan for higher densities and more intense development. As written the thresholds put cities at a competitive disadvantage on the environmental review playing field. GMA cities typically have and in fact are required to plan for and put in place infrastructure to support development at the levels anticipated by the growth targets established by regional planning agencies. GMA expects that planning efforts mitigate the impacts of development. To set the thresholds artificially low disregards the efforts cities undertake to meet state mandates. The thresholds do not represent the investments in infrastructure and regional transportation facilities that cities make to have sustainable development and maintain clear and predictable permit processes.

The historical information Ecology provided on threshold determinations indicated that the impacts of the majority of GMA city projects evaluated under SEPA were determined to be nonsignificant. Several conclusions could be drawn from this data. Most important is that the current thresholds are so low that even the most benign proposals are being caught in the SEPA net. The other conclusion that should be considered equally is that the regulatory mitigations that address all but the most adverse impacts are in place and functioning as intended. It is our sincere hope that consideration be given to the uniqueness of cities vs. unincorporated areas within UGA.

Jeffrey E. Forry  
Permit Services Manager  
City of Shoreline  
17500 Midvale Ave N  
Shoreline, WA 98133-4905

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From: Miguel Perez-Gibson [miguelperezgibson@me.com]  
Sent: Tuesday, October 09, 2012 12:40 PM  
To: ECY RE SEPA Rule Making  
Cc: Sheri Sears; Chaitna Sinha; Rep. John McCoy; Laurie, Tom (ECY)  
Subject: SEPA Draft Rule Response.

Regarding the DRAFT RULE to implement SB 6406, the language regarding Tribal Notification needs additional work to satisfy the intent of the legislation:

(iii) Ensure that federally recognized tribes receive notice about projects that impact tribal interests through notice under chapter 43.21C RCW and means other than chapter 43.21C RCW.

Thank you for the opportunity to respond. Please consider this email a placeholder for more detailed response from the Confederated Tribes of the Colville Reservation.  
Sent from my iPad

Miguel Perez-Gibson

NACA'N  
(360)259-7790

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From: Edith Duttlinger [EDuttlinger@ci.mlt.wa.us]  
Sent: Friday, October 05, 2012 4:39 PM  
To: Sant, Fran (ECY)  
Cc: Shane Hope  
Subject: COMMENT ON ECOLOGY'S PRELIMINARY DRAFT RULE PROPOSALS

Hi Fran,

Thank you for the opportunity to comment on DOE's preliminary rules to amend WAC 197-11 per SB 6406. We are pleased with many of the changes in exemption levels. We also have some concern. The following input is provided for consideration:

1. Dividing single and multifamily residential structures into 2 parts is a good clarification.
2. Proposed (c)(iii)Table 1 – Optional Tier 1 and Tier 2 thresholds (pg 5 ):

As a matter of policy, any increase in SEPA exemption levels is inconsistent with the objective to protect rural and resource areas and focus new development and redevelopment in cities and within UGAs.

a. For proposed Tier 2 upper thresholds for unincorporated areas/non UGAs: The proposed limits are excessive. A stricter limitation on exemptions should be used to discourage sprawl of residential and associated support services into non UGA areas.

- 1) We recommend the maximum exemption thresholds be capped at the current lowest exemption level for all categories, except agricultural may be appropriate to increase to 60,000 sq. ft. as shown in the proposed table.
- 2) The landfill quantity should be limited to 500 cubic yards (or less) except that a higher threshold might be appropriate to evaluate when associated with agriculture, only.

b. For proposed Tier 2 upper thresholds for cities and unincorporated UGAs: Urban areas should discourage reliance on vehicles and support all forms of transit and non-motorized modes of transportation.

- 1) Reduce the associated number of parking spaces for “office, schools ...” to no more than 60 parking spaces (1.5/1,000 sf) or at least reduce to a maximum of 80 parking spaces (2/1,000 sf).
- 2) Remove stand alone surface parking lots as an exempt land use when in excess of 20 parking spaces.
- 3) A higher threshold should be allowed when the parking is under structure.

3. I assume that WAC 197-11-800(1)(b)(v) which would become (b)(vi) is supposed to be inserted before new section (c). vi is referenced on pg. 3 but not shown on pg 4 of the Round 1 of Preliminary Draft proposed WAC 197-11 revisions

4. Proposed WAC 197-11-800(23) utilities...

a. Remove the 115,000 voltage exemption in existing utility corridors when located outside UGAs. We appreciate the need to address outdated voltage limits. We are happy to see that new facilities would continue to undergo SEPA review. However, the exemption should be reconsidered for existing corridors outside of UGAs. The overview section states, “Cross-country” transmission line construction project may have potential for significant adverse impact on the environment.” It follows that an increase in voltage from 55,000 to 115,000 volts in an existing corridor also has potential for significant adverse impact on wildlife. This is not to suggest that higher voltages in urbanized areas create no impact but sets a higher standard for lower or undeveloped areas.

5. It is unclear to me where the non-project exemptions for local ordinances that ensure consistency with an adopted CP or SMP or those ordinances that increase environmental

protection are addressed. Proposed items (1)(d) and (e) and (6) of WAC 197-11-315 seem to relate to that issue but completion of some portion of the checklist is still required. That seems contrary to being exempt from SEPA. Is something additional forthcoming?

6. Proposed WAC 197-11-315(1)(e) – reads “Nonproject proposals where the questions in Part B do not provide meaningfully to the analysis of the proposal. ...” We recommend changing some of the words...Nonproject proposals where the questions in Part B do not contribute meaningfully to the analysis of the proposal..., or Nonproject proposals where the questions in Part B do not provide meaningful information to the analysis of the proposal.

7. We recommend that – if possible – (23)(b) related to storm, water and sewer facility exemptions be raised from 8” pipe to at a minimum 12”, and potentially larger, in built-up (urban) areas. Upgrade of utilities lines in a paved street should, under ordinary circumstances, not need to undergo SEPA review.

I’d be happy to discuss or clarify any of our comments. Again, thank you for providing the opportunity to give input.

Edith

Edith L. Duttlinger, Senior Planner  
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From: Karen Walter [KWalter@muckleshoot.nsn.us]  
Sent: Friday, October 05, 2012 4:05 PM  
To: Sant, Fran (ECY)  
Cc: Daryl Williams  
Subject: RE: Opportunity to comment on preliminary draft rule language

Categories: Top Priority

Fran,

I left you a voicemail earlier today about the questions I have after reviewing the Preliminary Draft WAC 197-11 revisions. Here are the questions that I have:

1. Are projects that only impact stream and wetland buffers SEPA exempt or are they considered to be associated with lands covered wholly or partially by water? This matters because an increase in project size limits proposed for SEPA exemptions under 197-11-800(1)(c)

means more projects could be exempt from SEPA review yet impact treaty-protected fisheries resources.

2. In the original proposed changes for WAC 19-11-800(b)(iv), does the stand-alone parking lots exemption have a maximum size or number of spaces?

3. Are utility projects in WAC 197-11-800(23) exempt if they only impact streams and wetland buffers?

4. Proposed changes to WAC 197-11-315, item (d), who decides if the checklist questions are adequately covered? What is the basis or analysis to be used for this determination?

5. The new language in WAC 197-11-315 (b), page 9, is discretionary by using the word "may" instead of "shall". If the lead agency decides to not identify instances where the checklist questions are adequately covered by other regulations, etc, does the entire checklist get completed?

I do not have an opinion yet on the two alternatives to modify the SEPA exempt thresholds as I need responses to the questions above to help me figure out potential concerns and recommendations.

Thank you,  
Karen Walter  
Watersheds and Land Use Team Leader

Muckleshoot Indian Tribe Fisheries Division  
Habitat Program  
39015 172nd Ave SE  
Auburn, WA 98092  
253-876-3116

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From: Steve Pilcher [SPilcher@ci.blackdiamond.wa.us]  
Sent: Thursday, October 04, 2012 12:05 PM  
To: Sant, Fran (ECY)  
Subject: Draft SEPA Rules

Thank you for the opportunity to comment on the draft rule changes. As a planner who has worked at the local governmental level in Washington State for over 30 years, I am pleased to see the potential of threshold limits being raised. Too often, the SEPA process provides little value to local permitting decisions, particularly in an era of updated shorelines management plans, critical areas regulations, etc.

It appears the rules presume that a UGA jurisdiction will have indeed updated those environmental regulations. Four years ago, that was not the case here in Black Diamond.

Perhaps there should be distinction of whether a jurisdiction within a UGA is actually “up to date” on its regulations. Those who are, would be eligible for Tier 2 exemptions; those who are not, would be limited to the current flexible threshold limits.

The rules changes propose that a local government would notify the SEPA Register of Tier 2 exempted projects; is the intent to provide an appeal opportunity?

Thanks again for the opportunity to comment.

Steve Pilcher  
Community Development Director  
City of Black Diamond  
360-886-5700

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From: Reinert, Harry [mailto:Harry.Reinert@kingcounty.gov]  
Sent: Tuesday, October 09, 2012 2:32 PM  
To: Sant, Fran (ECY); separulemaking@ecy.wa.gov  
Cc: Kamuron Gurol; Scott Kuhta; CHelland@bellevuewa.gov; Mike.Podowski@seattle.gov; Jeffrey S. Wilson (jeff.wilson@co.chelan.wa.us); jweiss@wacounties.org; Carl Schroeder  
Subject: RE: Final draft proposed rule for review

Fran –

Attached is a marked up version of the document Ecology sent out yesterday. The proposed edits represent the thoughts of the city and county members of the advisory committee. The only edits we are proposing are found in subsection (1)(c). In subsection (1)(c)(iii), Ecology has proposed a new provision that would require specific time periods for notice to state agencies and others when adopting an ordinance that proposes to adopt the categorical exemption thresholds. We understand the interest in ensuring the state agencies, the Tribes, and others are aware of proposed changes to the categorical exemption thresholds. Under state law, local governments are required to provide notice and an opportunity to comment when they adopt ordinances or resolutions. These actions must be taken in a public meeting. Rather than have the rule set forth specific time periods for notice, we prefer to rely on these existing processes. However, since notice to state agencies, the Tribes, and other interested parties is not specifically required, we do agree that the rule should include that as a requirement.

We have also proposed some other minor edits to subsection (c) that clarify the language, but that we do not believe change the substance of the proposal.

Feel free to contact me or anyone else on the CC: list if you have questions about the edits.

Thanks,

Harry

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From: Corbitt Loch [corbitt.loch@gmail.com]  
Sent: Thursday, October 04, 2012 7:04 PM  
To: Sant, Fran (ECY)  
Subject: Preliminary draft proposed ch. 197-11 WAC revisions

Follow Up Flag: Follow up  
Flag Status: Completed

Ms. Sant:

Thank you for the opportunity to comment on the Preliminary Draft revisions to ch. 197-11 WAC. I am offering one comment on the preliminary draft amendments as written, and one suggestion for an amendment not already written.

Proposal A or B

Proposal B is preferred since the findings and notice provisions associated with Proposal A would not apply. The obligation to issue findings and notice for actions below the maximum thresholds (Proposal A) seems to be a rather timid step toward SEPA regulatory reform. As a slight variation, Proposal A would be appropriate if the findings and notice requirements do not apply to UGA lands. If local jurisdictions can aptly and responsibly plan for urban densities called for by regional growth strategies, those jurisdictions should be entrusted to make local land use decisions consistent with the myriad of environmental protections that apply (critical areas regulations, endangered species act, federal flood protections, clean air act, NDPES, concurrency, IBC, etc.)

Suggested additional amendment

Counties and cities expend considerable resources upon SEPA determinations for legislative actions to expand or enhance environmental protections, or facilitate smart growth and urban densities as mandated by regional growth strategies, or to comply with mandates set forth by State or Federal legislatures, State or Federal agencies, or by judicial order. Experience suggests that in these situations, SEPA determinations are perfunctory steps since either the legislation itself will reduce the likelihood of environmental impact, or the local jurisdiction lacks discretion regarding an alternative action. Below is an example of how such a subsection could be added to WAC 197-11-800:

WAC 197-11-800 Categorical Exemptions

(26) Legislative activities of counties and cities planning pursuant to chapter 36.70A RCW. The following activities

of counties and cities required to plan by RCW 36.70A.040 shall be exempt:

(a) Periodic adoption of updated comprehensive utility and transportation plans that are area-wide in nature.

(b) Adoption of amendments to comprehensive plans or development regulations, when the amendment is required by Federal or State law,

(c) Adoption of amendments to comprehensive plans or development regulations, when the purpose of the amendment is to avoid or mitigate potential adverse environmental impacts. Examples of such amendments may include adoption of more-stringent protections of lands designated as flood hazard; adoption of design guidelines; and adoption of a transportation impact fee program.

Thank you.

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