

Fran –

The following is a list of items the Counties would like included for consideration in the revised rule. We believe our requests are consistent with ESSB 6406 and will help make 197-11-800 more efficient and effective. I am sending this now because I am not sure if we will have time to get to all of these issues in the meetings and I don't want to miss the consideration deadline.

- 1) It is often unclear if SEPA is required when one part of an action is exempt and one part is not. While 197-11-800(1) is clear that each exemption is a standalone exemption (If a 4,000 sq. ft. commercial building is exempt, 1,100 cu yds of grading would not trigger SEPA). It is unclear, however, when a project is exempt in one section vs. another. An example is a conditional use permit not being listed as being exempt in 800(6) when the underlying action being requested is exempt.
- 2) The exception to the exemption related to rezones should be considered for removal as SEPA is already required for rezones under 800(6). The language is redundant.
- 3) The advisory committee previously seemed to agree that the exception for emissions and water discharge should be removed. We would agree with that.
- 4) The exception to the exemption related to lands covered by water should be considered for removal. It was added in 1984. Since that time the shoreline regulations have been substantially rewritten and cities and counties are required to update their SMPs to comply with the more rigorous standards. In addition, all cities and counties are required to protect critical areas under the Growth Management Act, including the requirement that they consider best available science in the protection of salmonids. The exception to the exemption is now unnecessary for projects that have otherwise been categorized as not requiring environmental review. To put it another way, the only reason SEPA is required for these projects is because of shorelines jurisdiction or critical areas and each local government is required to protect both under RCW 90.58 and RCW 36.70A. It is also interesting that projects that do not require local permits but do require a hydraulic project approval from WDFW are exempt if they involve less than 50 cubic yards of grading. See WAC 197-11-835(3). Applying a different standard to decisions of local governments and state agencies is archaic and suggests local governments are less trustworthy than state agencies when it comes to protecting the environment. At a minimum, the standards should be the same.

If this exception remains, we would ask that the exception only apply for projects on lands covered by water where shoreline and critical area jurisdiction does not apply. Further, if this exception remains, it needs to be fully defined so we can understand what the term means and where it would apply.

- 5) We believe significant modifications are needed for 800(6). First, we suggest the section title be changed from minor land use decisions to land use decisions. Next, one of the primary problems with this section is that there are a number of permits or actions, such as boundary line adjustments, for which SEPA is typically not completed but which is not

currently listed in 800(6) as exempt. There are a number of actions which fall in this category and this needs to be corrected.

The primary problem with listing only the exempt land use actions is that cities and counties throughout the state call different permits by different names. There are dozens of permit decisions made by local governments and it would be impossible to list everyone and have it uniformly work. Our suggestion is that the section should be re-written so it is clear about what is exempt and what is not.

Our idea is to have the section follow this concept:

- (1) 800(6) - All Land use decisions shall be exempt except the following:
 - (a) Any land use decision where the underlying action is not exempt from SEPA
 - (b) Rezones that require an amendment to the Comprehensive Plan Future Land Use Map
 - (c) Rezones, that do require an amendment to the Comprehensive Plan Future Land Use Map except as provided in subsection (2)
 - (d) Subdivisions or binding site plans except as provided in subsection (2)
- (2) Cities, towns, and counties may raise the exemption levels for the land use decisions listed below by following the procedures in WAC 197-11-800(1)(c):
 - (a) Rezones that require an amendment to the Comprehensive Plan Future Land Use Map
 - (b) Divisions of land, such as subdivisions and binding site plans under RCW 58.17*:

	Fully planning GMA counties		All other counties
Project types	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Subdivisions/Binding Site Plans	? units	? units	? units

**The way the table is set up would make it consistent with WAC 197-11-800(1). Although consistency with the multi-family standard should be considered, this will need discussion to see where people are comfortable.*

- 6) We believe 800(19) should be reviewed and amended to exempt all substantive code amendments that do not require an amendment of a Comprehensive Plan or Shoreline Master Program. Attached you will find a table prepared by counties which supports this proposal. Since 2008, the 9 listed counties have issued 120 threshold determinations on code projects meeting the criteria in a) and b) above. Each of the 120 determinations resulted in a DNS. Making these projects exempt would not diminish the substantial public participation process still required by the GMA and public hearing requirement for making such changes.

Counties would be open to language which would allow us to run SEPA on projects where it might provide value. We would also be open to a shortened checklist which would determine if SEPA is necessary. I can provide examples of how this might work.

- 7) Although not a top priority, we believe that 800(25) should be removed as they current language is confusing and doesn't provide a relationship between the exemption and impacts. All county jurisdictions we inquired with require public process for towers where impacts might be possible. This is both true for towers that are currently and not currently exempt from SEPA.
- 8) Update 197-11-800(2)(g) – change to above and below ground tanks, not just below.

County	Apx. # of code changes between 1/1/08 – present where comp plan change wasn't required	DNS	MDNS	DS
Island	18	18	0	0
Douglas	10	10	0	0
Benton	10	10	0	0
Skagit	10	10	0	0
Snohomish	22	22	0	0
Lewis	9	9	0	0
Chelan	12	12	0	0
Okanogan	17	17	0	0
King	12	12	0	0
TOTAL	120	120	0	0