

**2013 SEPA Rulemaking
Exemptions
Draft Proposed Rule Language
May 3, 2013**

A. WAC 197-11-756

Lands covered by water

"Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, wetlands, marshes, and swamps. Certain categorical exemptions do not apply to lands covered by water, as specified in Part Nine.

Wetlands are defined as areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. (from GMA definitions in 36.70A)

Comment [GS1]: In WAC 197-11-800(1)(b) minor construction is exempt unless the construction is wholly or in part on lands covered by water. This definition, as proposed by Ecology, clarifies that lands covered by water includes lands inside ordinary high water marks and wetlands. So if one is not constructing over a stream, it does not matter if there is a stream outside the area of construction. As defined herein, lands covered by water generally does not include buffers because buffers generally are outside the ordinary high water mark and outside the wetland. If one is putting in a culvert under a driveway, it is not on lands covered by water if it is not a natural water course. But if it is a natural water course, then the new culvert is not exempt from SEPA under the proposed language.

B. New Definition

Industrial Use

"Industrial use" means a use on properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

Zoned ~~for to allow~~ industrial use by a city or county conducting land use planning under chapter 36.70A RCW (Growth Management Act); or

Comment [AP2]: Technical fix.

Comment [AP3]: Technical fix. Zoning may allow industrial uses but not be zoned only for industrial uses.

For counties not fully planning under chapter 36.70A RCW (Growth Management Act) and the cities within them, zoned to allow industrial use and/or adjacent to properties currently used or designated for industrial purposes.

- Comment [AP4]: Technical fix.
- Comment [GS5]: Technical fix.
- Comment [AP6]: Technical fix?
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Industrial projects may have support facilities consisting of offices, restaurants, and other facilities that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are primarily intended to serve the industrial facility employees and not the general public.

197-11-800

C. (1) Minor new construction - Flexible thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone, conditional or special use permit, or any license governing emissions to the air or discharges to water or any license governing emissions to the air or discharges to lands covered by water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

- Comment [GS7]: Uses that require these permits can have location specific impacts that can only be conditioned under SEPA.
- Comment [GS8]: While we do not oppose defining industrial use, we do not support avoidance of SEPA review when an air permit is required or when there are discharges to lands covered by water. Local jurisdictions should retain siting control under SEPA for non-industrial uses such a diesel generators, coffee roasters, crematoriums, body shops, etc. that require air permits and for uses that might adversely affect waters of the state or wetlands.

Projects undertaken wholly or in part on agricultural lands of long term significance as defined by RCW 36.70A or on adjacent properties are not exempt under (b) (i), (ii), (iv) of this subsection.

[Alternative]The issuance of a local conditional or special use permit to authorize a use or for the operation of facilities is exempt provided the use is exempted by under this subsection is also exempt.

- Comment [AP9]: Ag adjacent properties: This is important for the same reason adjacent properties is included above in the non-fully GMA planning jurisdictions. Adjacent uses can adversely impact the continuance of agricultural uses. Same amendment added to page 7.
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(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

- (i) The construction or location of four detached single family residential units.
- (ii) The construction or location of four multifamily residential units.

- Comment [AP10]: Technical fix. We prefer that projects that require conditional and special uses not be exempt (as proposed above by us in this subsection (1)(a)), but if they are to be exempt from SEPA, we propose technical fixes.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

- Comment [GS11]: Note that this is the exemption for agricultural uses and agricultural uses need not rely on the exemption in subsection (iv) below.

- (iv) The construction of an office, school, commercial, recreational, service or storage

building, but not including buildings for industrial uses, with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes stand-alone parking lots.

Comment [GS12]: Technical fix.

~~(v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.~~

Comment [GS13]: We see no need to strike out this subsection in total.

(v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not necessary for an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

Comment [GS14]: We request that you replace the phrase "associated with" to "necessary for" and keep this subsection (1)(v). Under general practice, landfill and excavation even includes balanced cut and fill on a site when there is no material brought to or removed from the site.

~~(v) Mixed use development projects shall use the applicable single and/or multi family unit exemption thresholds plus the commercial exemption threshold as specified in (b) or (c) as applicable.~~

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Comment [AP15]: Mixed-use: The existing SEPA regulation (WAC 197-11-060(3)(b)) prohibits parts of projects from being exempted by treating each part of a project as a separate proposal. This provision in effect negates that requirement. The problem is that by allowing the combination of commercial, office, or residential exemption levels, an exempt project would be much larger than the maximum thresholds otherwise adopted and will generate much greater impacts such as traffic impacts.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels (such as different levels for different geographic areas).

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established project-level public comment opportunities that are provided for proposals included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the local government shall provide a minimum of twenty-one days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(d) The maximum exemption levels applicable to (c) of this subsection are:

	Fully planning GMA counties		All other counties
Project types	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	20 units	20 units
Multifamily residential	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
Landfill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards
Landfill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

Comment [GS16]: These landfill or exaction numbers should be retained.
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D. (2) Other minor new construction. The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone, conditional or special use permit, ~~or any license governing emissions to the air or discharges to lands covered by~~

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water is required:

- (a) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.
- (b) The construction and/or installation of commercial on-premise signs, and public signs and signals.
- (c) The construction or installation of minor road and street improvements by any agency or private party that include the following:
- (i) Safety structures and equipment: such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators;
 - (ii) transportation corridor landscaping (including application of ~~Washington state department of agriculture~~state of Washington approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660);
 - (iii) temporary traffic controls and detours;
 - (iv) correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required;
 - (v) adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required;
 - (vi) channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation;
 - (vii) installation of catch basins and culverts for the purpose of road and street improvements;
 - (viii) and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders where capacity is not increased and no new right of way is required;
 - (ix) addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.
- (d) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.
- (e) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character or use of the building or facility in a way that would remove it from an exempt class.
- (f) The demolition of any structure or facility, the construction of which would be exempted by

Comment [AP17]: Air/water discharge:
Important because air and water quality permits don't address the question of whether a project that requires an air quality or water quality permit and the impacts those permits imply belong in the proposed location.

Comment [CMN18]: The state agencies use the SEPA review to fill gaps that are not covered by their permits. My understanding is that the state agencies tend to do the SEPA review, not the local governments, so this is not a burden for locals. – and this would inappropriately remove SEPA from the state's tool box.

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subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance. Such as those listed in or eligible for listing in a national, state, or local register.

(g) (i) The installation and removal of impervious underground ~~or above-ground tanks,~~ having a capacity of 10,000 gallons or less; (ii) the installation and removal of above-ground tanks holding flammable or hazardous liquids with a holding capacity of 1,000 gallons or less; or (iii) the installation and removal of above-ground tanks not holding flammable or hazardous liquids with a holding capacity of 10,000 gallons or less.

Comment [AP19]: Above-ground tanks: Flammable tanks should have smaller limit because these are extremely dangerous and other regulations don't provide enough protection many locations. At 1,000 gallons it should provide for all household tanks and some small business' tanks.

(h) The vacation of streets or roads.

(i) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(j) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

E. (3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks).

The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging of over fifty-two cubic yards of material or any dredging where provided there are no hazardous materials at or around the project site that may be disturbed or removed;

Comment [AP20]: Dredging: Currently all dredging requires SEPA, this is a huge change and it's impossible for Ecology to show that this would not have any detrimental impact to the environment especially given the significant environmental impacts of dredging.

(b) Reconstruction or maintenance of ~~groins and similar~~ shoreline protection structures such as bulkheads and groins; or

(c) Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

F. (5) Purchase or sale of real property. The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to a specifically designated preexisting, and documented, ~~authorized~~ public use.

(c) The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

G. (6) Minor land use decisions. The following land use decisions shall be exempt:

(a) Except when construction is required upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection unless the total number of lots created by all exempted short plats and exempted short subdivisions does not exceed the short plat and short subdivision exemption limits in RCW 58.17.060.

(b) ~~Boundary line adjustments and the G~~ Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(d) Projects undertaken wholly or in part on agricultural lands of long term significance as defined by RCW 36.70A or on adjacent properties are not exempt under this subsection.

Comment [GS21]: Addresses city and county issue.

Comment [AP22]: Boundary line: While BLA aren't supposed to be used to create new lots, they often do, thus we oppose including them as SEPA exempt because now there won't be any public notice provided.

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Comment [AP23]: Ag adjacent properties again

H. (16) ~~Local improvement districts~~ Special purpose districts. The formation of a special purpose district, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and 197-11-880. A special district or special purpose district is a local government entity designated by the Revised Code of Washington (RCW) and is not a city, town, township, or county.

I. (23) Utilities. The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines ~~eight~~ twelve inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station, vault, pipe or well: ~~Provided, That a~~ Additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, ~~That the~~ chemicals used are approved by ~~the~~ Washington state ~~department of agriculture~~ and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

J. (24) Natural resources management. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites, not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided that the chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

(k) Except on lands covered by water, the minor repair, and maintenance, and rerouting of motorized recreational trails where there is no net increase in length or change in use.

Comment [AP24]: Rerouting: Rerouting could be abused too easily. For example, an existing trail that is setback away from neighboring properties could be rerouted right next to existing home.

K. (25) Personal wireless service facilities.

(a) The siting of personal wireless service facilities are exempt if the facility:

(i) ~~is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school~~ The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures does not substantially change the physical dimensions of such structures; or

(ii) ~~includes personal wireless service antennas, other than a microcell, and is to be~~

~~attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agriculture zone; or~~

~~(iii) The siting project~~ involves constructing a ~~personal~~ wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

(b) For the purposes of this subsection:

(i) "~~Personal~~ wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "~~Personal~~ wireless service facilities" means facilities for the provision of ~~personal~~ wireless services.

~~(iii) "Microcell" means a wireless communication facility consisting of an antenna that is either:~~

~~(A) Four feet in height and with an area of not more than five hundred eighty square inches; or~~

~~(B) If a tubular antenna, no more than four inches in diameter and no more than six feet in length.~~ "Collocation" means the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

(iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(v) "Substantially change the physical dimensions" means:

(A) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(B) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

Comment [AP25]: These changes are all specifically required by legislation passed this year, so we can't offer any changes.

L. New Section:

WAC 197-11-800 (26) Habitat restoration projects. Projects not exceeding five acres in size and designed to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife are exempt, provided that:

(a) There ~~would be~~ is no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to state protected species or federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.);

(b) There are no hazardous materials at or around the project site that may be disturbed or removed;

(c) There is no significant degradation of impaired waters under state water quality standards and the Clean Water Act (33 U.S.C. Sec. 1313);

(d) The projects are not undertaken wholly or in part on agricultural lands of long term significance as defined by RCW 36.70A; and

(e) ~~Examples of s~~Small restoration projects may include, but are not limited to:

(1) revegetation of disturbed areas with native plant species;

(2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;

(3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;

(4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment;

(5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and

(6) culvert replacement conducted in accordance with published guidelines of the Washington Department of Fish and Wildlife or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

Comment [AP26]: Need to refine this language to make it clear that the restoration projects are for specific purposes (e.g., species recovery) and not mitigation, parks enhancement projects, forest practice rules, etc.

Comment [AP27]: Unclear if this size criteria makes sense across a diverse range of restoration project types. For example, 5 acres is large for wetland projects but may be small for estuary/shoreline projects.

Comment [AP28]: Habitat restoration: Lots of questions here. Why five acres? (expected answer: that's what we originally proposed in the legislation as a counter to any size restoration project). What projects are covered? While the environmental community supports enhancement projects, SEPA calls on state and local agencies to consider the impacts of their actions on neighboring properties and communities and the entire environment. We are concerned that without this requirement, projects maybe designed to enhance habitat and with the best intentions, but without considering the adverse environmental impacts that may occur. This will both adversely impact the environment and generate opposition to enhancement projects and the public's willingness to fund these important projects. So we need to hear the rationale for this exemption and then work on language to limit its scope to enhancement projects that will have no adverse environmental impacts so that this broader look at environmental impacts is not needed.

M. 197-11-810 Exemptions and nonexemptions applicable to specific state agencies.

The exemptions in WAC 197-11-820 through 197-11-875 ~~relate only to the specific activities identified within the named agencies~~ apply only to the named agencies or their successor agencies with assigned jurisdiction over the applicable programs. These exemptions are in addition to the preceding sections of this part and are subject to the rules and limitations of

WAC [197-11-305](#). The categorical exemptions in WAC [197-11-800](#) apply to all agencies, including those named in WAC [197-11-820](#) through [197-11-875](#) unless the general exemptions are specifically made inapplicable by one of the following exemptions.

197-11-820
Department of licensing.

All licenses [issued by the department of licensing](#) ~~required under programs administered by the department of licensing as of December 12, 1975~~ are exempted, except the following:

- (1) Camping club promotional permits under chapter [19.105](#) RCW.
- (2) Motor vehicle wrecker licenses under chapter [46.80](#) RCW; WAC [197-11-800](#) (13)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

197-11-825
Department of labor and industries.

All licenses [issued by the Department of Labor and Industries](#) ~~required under programs administered by the department of labor and industries as of December 12, 1975~~ are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives under chapter [70.74](#) RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

197-11-830
Department of natural resources.

The following actions and licenses of the department of natural resources are exempted:

- (1) Forest closures, shutdowns and permit suspensions due to extreme unusual fire hazards.
- (2) Operating permits to use power equipment on forest land.
- (3) Permits to use fuse on forest land.
- (4) Log patrol licenses.

(5) Permits for drilling for which no public hearing is required under RCW [79.76.070](#) (geothermal test drilling).

(6) Permits for the dumping of forest debris and wood waste in forested areas.

(7) Those sales of timber from public lands that the department of natural resources determines, by rules adopted pursuant to RCW [43.21C.120](#) do not have potential for a substantial impact on the environment.

(8) Except on aquatic lands under state control, leases for mineral prospecting under RCW [79.01.616](#) or [79.01.652](#), but not including issuance of subsequent contracts for mining.

197-11-835

Department of ~~fisheries~~ [Fish and Wildlife](#).

The following activities of the department of ~~fisheries~~ [Fish and Wildlife](#) are exempted:

(1) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.

(2) All hydraulic project approvals (RCW [75.20.100](#)) for activities incidental to a Class I, II, III forest practice as defined in RCW [76.09.050](#) or regulations thereunder.

(3) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of game) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels which have been naturally abandoned within the twelve months previous to the hydraulic permit application.

(4) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.

(5) All other licenses (other than those excepted in (2) and (3) above) authorized to be issued by the department as of December 12, 1975 except the following:

(a) Fish farming license, or other licenses allowing the cultivation of aquatic animals for commercial purposes;

(b) Licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and,

(c) Any license authorizing the discharge of explosives in water. WAC [197-11-800](#) (13)(i) shall apply to allow possible exemption of renewals of the above licenses.

(6) The routine release of hatchery fish, [game birds, and animals](#) or the reintroduction of endemic or native species into their historical habitat where only minor documented effects on other species will occur.

(7) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.

(8) The issuance of falconry permits.

(9) The issuance of all hunting or fishing licenses permits or tags.

(10) Artificial game feeding.

(11) The issuance of scientific collector permits.

(12) Minor repair work to be done by hand tools. Examples include:

(a) Maintenance of fish screen or intake structures; or

(b) Silt and debris removal from boat launches, docks, and piers.

(12) Collection of game fish and wildlife for research.

197-11-840

~~Department of game.~~

~~The following activities of the department of game are exempted:~~

~~— (1) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.~~

~~— (2) The issuance of falconry permits.~~

~~— (3) The issuance of all hunting or fishing licenses, permits or tags.~~

~~— (4) Artificial game feeding.~~

~~— (5) The issuance of scientific collector permits.~~

~~— (6) All hydraulic project approvals (RCW 76.09.050) for activities incidental to a Class I, II, III forest practice as defined in RCW 76.09.050 and regulations thereunder.~~

~~— (7) Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of fisheries) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels that have been naturally abandoned within the twelve months previous to the hydraulic permit application.~~

~~— (8) The routine release or transfer of hatchery fish, game birds, and animals or the reintroduction of endemic or native species into their historical habitat, where only minor documented effects on other species will occur.~~

~~— (9) Minor repair work to be done by hand tools. Examples include:~~

~~— (a) Maintenance of fish screen or intake structures; or~~

~~— (b) Silt and debris removal from boat launches, docks, and piers.~~

~~— (10) Collection of game fish and wildlife for research.~~

Comment [GS29]: Strike this section. Technical fix.

197-11-845

Department of social and health services and Department of Health.

All department of social and health services and department of health actions under programs administered by the department of social and health services as of December 12, 1975, are exempted, except the following:

Comment [AP30]: Technical fix.

(1) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material under RCW 70.98.080, except that the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities or their tailings areas whose products or byproducts have concentrations of naturally occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250, shall not be exempt.

(2) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units under WAC 248-54-065.

(3) The approval of engineering reports or plans and specifications under WAC 248-54-085 and 248-54-095, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.

(4) The approval of an application for a certificate of need under RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(5) The approval of an application for any system of sewerage and/or water general plan or amendments under RCW 36.94.100.

(6) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department under WAC 248-92-040.

(7) The construction of any building, facility or other installation not exempt by WAC 197-11-800 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions (e.g., prisons).

(8) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of a private psychiatric hospital pursuant to WAC 248-22-005 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

197-11-850
Department of agriculture.

All department of agriculture actions ~~under programs administered by the department of agriculture as of December 12, 1975~~ are exempted, except for the following:

- (1) The approval of any application for a commercial registered feedlot, quarantined registered feedlot under chapter 16.36 RCW, or chapters 16-28 and 16-30 WAC.
- (2) The issuance or amendment of any regulation respecting restricted-use pesticides under chapter 15.58 RCW that would have the effect of allowing the use of a pesticide previously prohibited by Washington state.
- (3) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users, unless the pesticide is no longer manufactured and is not available.
- (4) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established under WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certificate, or an applicator operator license, unless the pesticide is no longer manufactured and is not available.
- (5) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-165 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license, unless the pesticide is no longer manufactured and is not available.
- (6) The approval of any use of the pesticide DDT or DDD except for those uses approved by the centers for disease control of the United States Department of Health and Human Services (such as control of rabid bats).
- (7) The issuance of a license to operate a public livestock market under RCW 16.65.030.
- (8) The provisions of WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of the licenses in (1) through (7) above.

197-11-855
Department of ecology.

The following activities of the department of ecology shall be exempt:

- (1) Review of comprehensive solid waste management plans under RCW 70.95.100 and 70.95.110.
- (2) Granting or denial of certification of consistency pursuant to the Federal Coastal Zone Management Act (16 U.S.C. 1451).
- (3) Issuance of short-term water quality standards modification, pursuant to chapter 173-201

WAC, for minor projects when the water violations would:

- (a) Result in turbidity violations only;
 - (b) Be less than fourteen days duration;
 - (c) Be mitigated by a current hydraulic project approval conditioned to protect the fishery resource; and
 - (d) Not significantly impair beneficial uses of the affected water body.
- (4) Approval of engineering reports when such approval allows preparation of plans and specifications, but not when it would commit the department to approving the final proposal.

197-11-860

Department of transportation.

The following activities of the department of transportation shall be exempt:

- (1) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 U.S.C. 402;
- (2) Issuance of road approach permits and right of way rental agreements;
- (3) Establishment and changing of speed limits of 55 miles per hour or less;
- (4) Revisions of existing access control involving a single property owner;
- (5) Issuance of a "motorist information signing permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;
- (6) Issuance of permits for special units relative to state highways;
- (7) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;
- (8) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; and
- (9) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

197-11-865

Utilities and transportation commission.

All actions of the utilities and transportation commission under statutes administered as of December 12, 1975, are exempted, except the following:

- (1) Issuance of common carrier motor freight authority under chapter [81.80](#) RCW that would authorize a new service, or extend an existing transportation service in the fields of petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives, or corrosives;
- (2) Authorization of the openings or closing of any highway/railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;
- (3) Regulation of oil and gas pipelines under chapter [81.88](#) RCW; and
- (4) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which

would not be otherwise exempt under WAC [197-11-800](#), and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

197-11-870

Department of commerce ~~and economic development~~.

The following activities of the department of commerce ~~and economic development~~ shall be exempt:

(1) The provisions of business consulting and advisory services that include tourist promotion under RCW [43.31.050](#).

(2) The promotion and development of foreign trade under RCW [43.31.370](#).

(3) The furnishing of technical and information services under RCW [43.31.060](#).

(4) The provision of technical assistance to applicants for loans and aid and/or grants by the community of economic revitalization board under chapter [43.160](#) RCW.

(5) The conduct of research and economic analysis under RCW [43.31.070](#), including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under RCW [43.31.160](#), [43.31.200](#) and [43.31.210](#).

197-11-875

Other agencies.

Except for building construction (the majority of which is undertaken through the department of ~~general administration~~ [Enterprise Services](#)), all activities of the following state agencies ~~under programs they administer as of December 12, 1975,~~ are exempted:

(1) Office of the attorney general.

(2) Office of the auditor.

(3) Department of employment security.

(4) Office of the insurance commissioner and ~~state fire marshal~~.

(5) Department of ~~personnel~~ [Enterprise Services](#).

(6) ~~Department of printing~~ [Office of Financial Management](#).

(7) Department of revenue.

(8) Office of the secretary of state.

(9) Office of the treasurer.

(10) Arts commission.

(11) Washington state patrol.

(12) ~~Interagency committee for outdoor recreation~~ [Recreation and Conservation Office](#).

(13) ~~Department of emergency services~~ [Emergency Management Division](#).

(14) Department of ~~general administration, division of banking and division of savings and~~

~~loan associations.~~ Financial Institutions

- (15) ~~Forest practices appeals board.~~
- (16) Public employees' retirement system.
- (17) Law enforcement officers' and firefighters' retirement board.
- (18) Board for Volunteer Firefighters & Reserve officers ~~fireman's retirement system board.~~
- (19) State department of retirement systems.
- ~~(20) Teachers' retirement system board.~~
- ~~(21) Higher education personnel board.~~
- ~~(22) Commission for vocational education.~~
- ~~(23) State energy office.~~

N. WAC 197-11-830

Department of natural resources.

The following actions and licenses of the department of natural resources are exempted:

- (1) Forest closures, shutdowns and permit suspensions due to extreme unusual fire hazards.
- (2) Operating permits to use power equipment on forest land.
- (3) Permits to use fuse on forest land.
- (4) Log patrol licenses.
- (5) Permits for drilling for which no public hearing is required under RCW [79.76.070](#) (geothermal test drilling).
- (6) Permits for the dumping of forest debris and wood waste in forested areas.
- (7) Those sales of timber **and rocks** from public lands that the department of natural resources determines, by rules adopted pursuant to RCW [43.21C.120](#) do not have potential for a substantial impact on the environment.
- (8) Except on aquatic lands under state control, leases for mineral prospecting under RCW [79.01.616](#) or [79.01.652](#), but not including issuance of subsequent contracts for mining.