At the last SEPA Advisory Committee meeting, the counties were tasked with gathering information about existing regulatory laws, other than SEPA (43.21c), that require local governments to provide public notice. We hope that the information provided below will lead to a good conversation at the meeting on March 14th.

This information is being gathered so we can examine two questions:

1) Will raising SEPA exemption levels create "notice or participation gaps" for agencies and interested parties?

For legislative actions, ESSB 6406 requires that we "Create categorical exemptions for minor code amendments for which review under Chapter 43.21C RCW would not be required because they do not lessen environmental protection."

For project actions, ESSB 6406 states "At a minimum, increase the existing maximum threshold levels" and "Update, but not decrease, the thresholds for project actions." While raising SEPA exemption levels may limit notice or an opportunity to comment/appeal under SEPA, most major land use and legislative decisions already required notice under another statute. The following table outlines project and non-project actions which require public participation/public notice outside of SEPA.

Statute	Notice requirements
RCW 58.17 – Plats-Subdivisions	Requires notice for subdivisions and the adoption of regulations and procedures for short subdivisions and binding site plans. This statute also requires a public process for alterations and vacations. Plats • Notice application required (14-30 day comment period) • At least 10 days published notice • Notice to adjacent properties within 300 feet • Notice to adjacent city or county • Subject to SEPA Short Plats • Notice not required under 58.17, but notice of application required under 36.70B (14-30 day comment period) • Exempt from SEPA (except of lands covered by water)
RCW 90.58 – Shoreline Management Act	Requires notice of application pursuant to 36.70B, 30-day comment period pursuant to RCW 90.58, and DOE review/approval for Shoreline Substantial Development permits, variances, and conditional use permits.
RCW 36.70A – Growth Management Act - Non project actions (Code, policy, and map changes)	Requires implementation of public participation requirements for policy, code, and map updates subject to GMA requirements. There are numerous requirements including commenting, public notice, and 60-day notice to Commerce for a code or policy update prior to adoption. Requires adoption of public participation plan.
RCW 36.70B – Local Project Review Act	Provides direction for processing development applications, including comment period requirements, notice requirements, and permit decision requirements. • Public notice required for all applications, unless excluded by ordinance. Must provide at least 14-30 day comment period. • Local government may exclude the following permits:

	o Lot line or boundary adjustments o building and other construction permits, or similar administrative approvals, o SEPA categorically exempt
RCW 36.70 – Planning Enabling Act	Although some non-fully planning counties have regulations promulgated under 36.70B, 36.70 is the default for non-GMA regulations (such as zoning controls outside of Resource Lands). Some non-fully planning counties have regulations similar to those outlined in 36.70B because they are consistent with the requirements under 90.58, 43.21c, 58.17.

In a memo provided to this Committee last year, project actions were divided into four general categories for discussion purposes:

Category	Description
1. Projects that do not require notice/SEPA is not required	These are generally minor permits such as building permits, tenant improvements, small sign permits, shoreline exemptions, etc.
2. Projects that do not require notice/SEPA is required	There are few permits that fall within this category including some building permits e.g. lands covered by water) and stand alone grading permits.
3. Projects that require public notice/ SEPA is not required	This would encompass small projects such as short plats (on lands not covered by water), variances, and other minor land use decisions pursuant to 197-11-800(6).
4. Projects that require public notice/SEPA is required	This would encompass many of the projects described in the table above including subdivisions, rezones, many conditional use permits, large commercial projects, etc.

If we accept that there are generally four categories of projects, then we should be able to focus in on the category with concern. Categories of project actions which fall into areas 3 and 4 should not be a concern for the Committee because they require project notice, even where SEPA is not required. Under Harry's presentation at the last meeting, the key is syncing up those processes so they work efficiently.

The primary concern should only be those projects in Category 1. More specifically, those projects which were in Category 2 prior to ESSB 6406 and which might be in Category 1 after the SEPA rules are updated.

So, let's examine what types of projects might fall within Category 1 if WAC 197-11-800(1) stays as amended in 2012 and changes are made to 800(6) regarding land use decisions, 800(19) regarding code and policy changes, modifications or removal of the "exceptions to the exceptions" and other minor changes are made during our 2013 efforts. Types of projects moving into Category 1 from 2 might include:

- Minor new construction permits in WAC 197-11-800(1) including:
  - Landfill or excavation between 501 and 1000 cubic yards

- Building 21 to 30 single family residences in an urban growth area of a full planning county if an overlying permit is not required by the jurisdiction

- Building 21 to 60 multi-family residences in an urban growth area of a full planning county or between 21-25 multi-family residences in a rural area or non fully planning county if an overlying permit is not required by the jurisdiction

- Office, school, commercial, recreational, service, storage building, parking facilities between 12,001 and 30,000 square feet with up to 90 parking spaces in an urban growth area of a full planning county if a conditional use permit or other permit is not required by the jurisdiction

- Barn, loafing shed, farm equipment storage, produce storage or packing structure between 30,000 and 40,000 square feet if a conditional use permit or other permit is not required by the jurisdiction

It is important to remember that none of the permits described above could move from Category 2 to Category 1 unless the local government adopts an ordinance and makes proper findings.

2. **How will we ensure that raising SEPA exemptions results in the same opportunity for agencies and interested parties to be notified, while still gaining efficiencies with SEPA as described in ESSB 6406.**

Now that we have described the notice "gap" that could be created, we need to include the idea from the last meeting about the one page notice to DOE. The notice would be given for any project action that was in Category 2 and would now be in Category 1, thus removing any public notification.

What makes this proposal very effective is that it recognizes that cities and counties throughout the state have differing regulations and requirements and would require every jurisdiction to provide notice if a "gap" is created. It would also provide a database, at DOE, where interested parties could go and find permit information. Further, this proposal would require notice for every project where notice is now required. No "gap" would be created.