

197-11-800

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note:

The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

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

(a) Except as otherwise provided in subsection (27) of this section, the exemptions in this subsection apply to all licenses required to undertake the construction in question (~~(, except when a rezone or any license governing emissions to the air or discharges to 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.

...

(2) **Other minor new construction.** Except as otherwise provided in subsection (27) of this section, 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))~~ in this ~~((section))~~ subsection shall apply to all licenses required to undertake the construction in question (~~(, except where a rezone or any license governing emissions to the air or discharges to water is required)~~):

...

(6) ~~((Minor land use decisions))~~ **Current Use Taxation Decisions.** ~~((The following land use decisions shall be exempt:~~

(a) Except 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

Comment [hr1]: I'm suggesting moving the "except" language to a new subsection. It might make more sense to include this earlier in the subsection, but that would require renumbering the rest of the sections and then finding all of the cross-references. Didn't seem like it was worth the effort.

Comment [hr2]: This is the language Dick Settle referred to the other day. With the introductory language and moving the exception to a different place, the meaning seems pretty clear. As a result, there is also no need to call out any other types of permits, e.g., special use, conditional use, variance, etc. Those would all be included in this general statement.

Comment [hr3]: See comment above on moving the "except" language. In addition, there are slight differences in wording between (1) and (2) that don't seem to be meaningful and could create confusion.

Comment [hr4]: I didn't see anything in this subsection that this referred to.

Comment [hr5]: Limiting this section to current use.

subdivisions or short platting within a plat or subdivision previously exempted under this subsection.

Comment [hr6]: Short plats are covered by new subsection (27)

(b) 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.

Comment [hr7]: The circumstances where this subsection would be relevant seem to be covered by subsections (1) and (2), in the statement that all licenses (which would include variances) for those activities are exempt.

(e) Classifications)) The classification of land for current use taxation under chapter 84.34 RCW((:)) and classification and grading of forest land under chapter 84.33 RCW shall be exempt.

...

(26) Short subdivisions and boundary line adjustments. (a) The approval of a short plat or short subdivision under chapter 58.17 RCW is exempt, unless:

Comment [hr8]: Adding boundary line adjustments to the exemptions.

(i) the proposed short plat or short subdivision that would cause the cumulative division within the boundaries of the original short plat or short subdivision to exceed the total residential unit lot exemptions allowed to be created under a short subdivision by chapter 58.17 RCW; or

Comment [hr9]: These incorporate the provisions developed through the discussion between county, city, business, and environmental representatives.

(ii)(A) Except as otherwise provided in (ii)(B) of this subsection, the proposed short plat or short subdivision includes lands covered by water within the boundaries of the short subdivision or short plat.

(B) A short plat or short subdivision that includes lands covered by water within the boundaries of the short plat or short subdivision is exempt if the application and approval prohibit locating building sites, facilities, improvements, structures, fills, excavations, or construction below the ordinary high water mark of a water of the state, in a wetland, or in the local government's associated standard buffer for the water of the state or wetland. A local government may allow modification of the standard buffer through buffer averaging or other similar measures if its development regulations require the development proposal to demonstrate that the ecological structure and function of the resulting buffer is equivalent to or greater than the structure and function before averaging, that the total area of the buffer is not reduced, that the buffer area is contiguous, and that there is no reduction of the minimum buffer for the buffer area waterward of the top of the associated steep slopes.

(b) The approval of a boundary line adjustment under chapter 58.17 RCW is exempt.

(27) Construction exceptions. The exemptions in this subsections (1) and (2) of this section do not apply when the construction requires:

Comment [hr10]: Since the same standard applies to both subsections, makes sense to put these "exceptions" in one location.

(a) a rezone for which the potential impacts were not previously analyzed in environmental review conducted for a comprehensive plan or sub-area plan adopted under RCW Chapter 36.70A;

(b) a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(c) a license governing discharges to the air that is not exempt under RCW 43.21C.0381

(e) approval of a plat or subdivision under chapter 58.17 RCW; or

(d) unless exempted under subsection (27) of this section, approval of a short plat or short subdivision under chapter 58.17 RCW.

Comment [hr11]: This is the language as proposed by Ecology in its draft.

Comment [hr12]: Specific cross-reference to the statutory provisions establishing exemptions for air and water permits

Comment [hr13]: Just to be clear that subdivisions do require SEPA.

Comment [hr14]: Might be a more straightforward way to say this. Intent is to be clear that that SEPA is required for construction dependent on a non-exempt short plat.