



SEPA REFORM: CATEGORICAL EXEMPTIONS

BACKGROUND

The State Environmental Policy Act (SEPA), enacted in 1971, was developed to recognize and evaluate the environmental or public health impacts of construction, proposed regulations, policies, and private projects. Today, SEPA often represents a duplicative and unnecessary requirement. There are two primary reasons for this:

1. In the decades since SEPA has become law, many other state laws have passed which have required jurisdictions to enact regulations that protect the environment. This includes the Growth Management Act (GMA), critical areas regulations, stormwater regulations, the Shoreline Management Act, and dozens of other development regulations and standards which are utilized to mitigate project impacts. Environmental protections have not been lessened. Mitigation has just shifted to city and county regulations.
2. The GMA (RCW 36.70A) and the Local Project Review Act (RCW 36.70B) outline substantial requirements for community, Tribal, and local, state, and federal agency engagement during policy, code, and permit processes. Public notice under SEPA is duplicative of more effective and impactful ways to engage on permitting and planning projects.

WAC 197-11-800: CATEGORICAL EXEMPTIONS

RESIDENTIAL CONSTRUCTION EXEMPT FROM SEPA

The Washington State Legislature has recognized the need to reduce when SEPA is utilized, and in response developed SEPA categorical exemptions to remove projects below a specified number of units from being required to go under SEPA review. WAC 197-1-800 gives local jurisdictions the option to adopt new thresholds for SEPA exemptions.

The following information is related to the limits that projects can be built to without triggering a SEPA review. These are the maximum levels if implemented by cities, towns, and counties:



| Project types | Fully planning GMA counties | | | All other counties |
|--|-----------------------------|--------------------|----------------------------|---------------------------------------|
| | Incorporated UGA | Unincorporated UGA | Other unincorporated areas | Incorporated and unincorporated areas |
| Single family residential* | 30 units | 30 units | 20 units | 20 units |
| Single family residential with the total square footage less than 1,500 square feet | 100 units | 30 units | 20 units | 20 units |
| Multifamily residential** | 200 | 60 units | 25 units | 25 units |
| Fill or Excavation | 1,000 cubic yards | 1,000 cubic yards | 1,000 cubic yards | 1,000 cubic yards |

Subdivisions

Department of Ecology (DOE) has released a draft interpretation allowing the categorical exemptions to apply to subdivisions. SEPA review is not required for exempt minor new construction proposals under WAC 197-11-800(1) that also include a subdivision of land.

For any challenges encountered with jurisdictions allowing the exemptions to apply to subdivisions, refer them to the DOE draft interpretation [here](#).

Excavation, Minor Construction, Remodels

- Fill or excavation of 100 cubic yards through total lifetime of excavation.
- Minor new construction
- Remodels, repairs, and modifications that do not change the use of the buildings are also exempt from SEPA review



BENEFIT

- Reduce permits time frames while maintaining important environmental protections.
- Remove processes that are not adding value to the permit process.
- Reduce workloads for city/county planners. This will allow them to focus on important projects and processes.
- Save permit applicants time and money.
Applicants may save an average of one month during the permitting review process and \$3,200 in expenses.
- Local government saves the effort and money required to submit SEPA to Ecology.
- The regulatory burden to applicants is reduced by raising SEPA thresholds.
- Allow lead agencies flexibility in setting their thresholds for mixed use developments.
- Lead agencies will avoid duplicative documentation and analysis of impacts otherwise mitigated by adopted development regulations and standards.

*Lower the regulatory burden
placed on local government
as well as applicants*

TOOLS & RESOURCES

- Washington State Legislature: WAC 197-11-800
 - <https://app.leg.wa.gov/wac/default.aspx?cite=197-11-800>
- Puget Sound Regional Council: SEPA Categorical Exemptions
 - <https://www.psrc.org/asset/sepa-categorical-exemptions-74>