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**WAC 197-11-800****Categorical exemptions.**

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) The exemptions in this subsection apply to all licenses required to undertake the construction in question. 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. The exemptions in this subsection apply except when the project:

- (i) Is undertaken wholly or partly on lands covered by water;
- (ii) Requires a license governing discharges to water that is not exempt under RCW

**43.21C.0383;**

(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

- (iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

**(b) The following types of construction shall be exempt:**

- (i) The construction or location of four attached or detached single family residential units.
- (ii) The construction or location of four multifamily residential units.
- (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.
- (iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles. This exemption includes parking for fewer automobiles not associated with a structure.

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(v) Any fill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (i), (ii), (iii), or (iv) of this subsection shall be exempt.

(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, and mixed use projects.

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

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of storage structures and minor road and street improvements. Other exemptions include maintenance activities, enforcement and inspection activities, issuing business licenses, storm/water/sewer lines eight inches or less, etc.

**Q: When do categorical exemptions not apply?**

**A:** Some exemptions contain exceptions in which the exemption does not apply. These include proposals involving lands covered by water; projects requiring a license to discharge to the air or water; or projects requiring a rezone. A city or county may also eliminate some exemptions if the project is located within a designated critical area.

**Q. If a proposed construction project is exempt from SEPA but the clearing and grading associated with the construction exceeds the maximum of the threshold in the "landfill and excavation" exception, is SEPA required?**

**A:** The list of SEPA exemptions for "minor new construction" cover the "activity" of constructing a residence, office, shed, parking lot, a landfill or excavation type of proposal. Ecology views the list as mutually exclusive, in part due to the preface to the list: A proposal to build or locate a house is considered a "residential" type of "construction in question."

**Q. What is the definition of "recognized historical significance" as used in the exception to minor new construction exemptions?**

**A.** A property that is eligible for official listing on a local, state or national historic register can be considered "significant" for the purpose of this exception. Applicants and lead agencies should consult the [Department of Archaeological and Historic Preservation \(DAHP\)](#) prior to making an assumption about the applicability of this exemption.

**Q. If a project spans two or more jurisdictions with different exemption thresholds, which**