

Date: March 9, 2005

Approved By: _____

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Rule: 5700	Providing Interpretations on WAC 197-11800-SEPA Exemptions on Land Covered by Water
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LEGISLATIVE HISTORY: Adopted February 24, 1998 as POL 5700, repromulgated pursuant to SCC 30.82 on March ____, 2005.

SEE ALSO: NA

SCC APPLICABILITY: Chapter 30.62 SCC (Critical Areas Regulations) and 30.61 SCC (Environmental Review, SEPA)

PURPOSE: Providing interpretations on WAC 197-11800-SEPA exemptions on land covered by water.

RULE SUMMARY:

On January 15, 1998, Ordinance No. 97-109 became effective and eliminated environmentally sensitive areas (ESAs) provisions of SCC 23.12.120. These provisions were optional for county implementation and required certain minor new construction activities which were normally exempt from SEPA review to be subject to SEPA review when located in ESAs. The elimination of these provisions was appropriate because the county has adopted GMA critical area regulations that identify impacts and require mitigation when critical areas are encountered during review of development proposals.

Current SEPA guidelines (WAC 197-11-800(1)) remove certain normally exempt activities from the exempt category when the activities are located "on lands covered by water." Certain lands covered by water are also critical areas as defined by county code. Since critical areas are already being protected under the county's critical area regulations, and critical area protection standards establish the standard of protection required under SEPA, it is also appropriate to rely upon these regulations for impact mitigation when the water bodies are not disturbed and are regulated under Chapter 30.62 SCC. In these cases it should not be necessary to duplicate this review through the SEPA process.

Minor construction activities and short plats should continue to be subject to the "lands covered by water" category if the water body is being disturbed (within ordinary high water mark) or the water body is not a critical area regulated under Chapter 30.62 SCC Critical Areas Regulations. In those cases, SEPA review would continue to be required. **THEREFORE:**

1. Proposed Actions (Minor New Construction and Minor Land Use Decisions) that would Normally be Exempt From SEPA, Pursuant to WAC 197-11-800(1), Except for their Location on "Lands Covered by Water" as Defined in WAC 197-11-756, will Continue to be Exempt where:
 - a) the water body is a critical area as defined in Chapter 30.62 SCC, AND
 - b) no disturbance is proposed within the ordinary high water mark of the water body (no fill, excavating, culverting, bridging, or other site disturbance).