Concise Explanatory Statement

and

Response to Comments for the Adoption of Amendments to Growth Management Act Rules

- Exempting Artificial Features from the Definition of Critical Areas (WAC 365-190 and 365-196)

- Procedural Criteria For Adopting Comprehensive Plans And Development Regulations (WAC 365-196)

January 5, 2015
Introduction to this document

The Washington State Department of Commerce (Commerce) prepared this Concise Explanatory Statement and Responsiveness Summary to meet requirements of the Washington State Administrative Procedures Act, the law that guides agency rule-making (RCW 34.05.325).

Section I provides a general description of the process and the scope of work on the proposed rule.

Section II responds to the comments received regarding the proposed rule, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

Section III summarizes differences between the proposed and adopted rule.

This document is available on the Commerce website at www.commerce.wa.gov/wacupdate

I: Concise Explanatory Statement

Introduction

Scope of the GMA
The Growth Management Act (GMA) was adopted in 1990 to provide a new framework for land use planning and the regulation of development in Washington State. The act is a response to problems associated with uncoordinated and unplanned growth and a lack of common goals in the conservation and the use of our land. The problems included increased traffic congestion, pollution, school overcrowding, urban sprawl, and the loss of rural lands. The GMA contains a set of goals to guide local government planning, as well as more specific requirements governing comprehensive plans and development regulations. The GMA calls on local governments to meet these requirements through a sequence of steps, some undertaken individually and some undertaken jointly between cities and counties. Once comprehensive plans and development regulations are adopted, the GMA calls on local governments to periodically review and update those plans to ensure ongoing compliance with the act.

Statutory Authority
The GMA directs Commerce to establish a program of technical and financial assistance for local governments, to assist in implementation of the GMA. RCW 36.70A.050 directs Commerce to adopt guidelines for the classification of resource
lands (agricultural, forest and mineral resource lands) and critical areas. These rules are codified in Washington Administrative Code (WAC), under Chapter 365-190 WAC. RCW 36.70A.190 directs Commerce to adopt by rule “procedural criteria” to help counties and cities adopt comprehensive plans and development regulations that meet the goals and requirements of the GMA. These procedural criteria are found in Chapter 365-196 WAC.

The role of GMA rules
The rules are advisory to local governments. The Growth Management Hearings Boards determine compliance and must consider these rules to assist in interpreting the GMA. Local governments must consider the Minimum Guidelines (Chapter 365-190-WAC) when designating critical areas and resource lands. Local governments may use the procedural criteria (Chapter 365-196 WAC) to guide their implementation of the GMA. The primary audiences for the rules are local governments with statutory obligations under the GMA, members of the public, state agencies, tribes or other governments who participate in the local planning process. The Growth Management Hearings Boards also consult the rules to help interpret the goals and requirements of the GMA.

Reasons for amending GMA rules
Reasons supporting amendment of Chapter 365-190 and 365-196 WAC:

- To bring rules into conformance with legislative changes to the Growth Management Act that occurred in 2011 and 2012. No amendments adopted during the 2013 legislative session require amendments to Commerce rules.

How the rules were developed
Initial Scoping and Petition for Amendment
Commerce initiated update of GMA rules on February 4, 2014 by filing the CR-101, published in the State Register as WSR 14-05-049. Commerce took the following outreach steps:

- Reviewed recent statutory changes, gathered informal feedback from stakeholders.
- Established an e-mail Listserv that kept interested parties updated on progress throughout the rule development process.
- Established a project web site at www.commerce.wa.gov/wacupdate.
**Proposed Rules**

Commerce filed the proposed rules on November 4, 2014, as WSR 14-22-092. Commerce also posted on the project web site a copy of the proposed rules. Commerce held a hearing on the proposed rule on December 11, 2014, commencing at 9am in Olympia, WA. No participants attended the hearings. Commerce did not receive any written comment letters during the formal comment period.

**Adopted rules**

Commerce adopted and filed the final rule in February, 2014. As required by the Washington State Administrative Procedures Act (RCW 34.05.325), Commerce prepared this Concise Explanatory Statement and Responsive to Comments Summary to identify the reasons for adopting the rules, describe differences between the proposed and adopted rule, and respond to all comments received regarding the proposed rule, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

---

### Docket of Proposed Rule Amendments

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Source of Change</th>
<th>Rules Affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Exempting artificial features from the definition of critical areas</td>
<td>SB 5292, 2012 Legislature RCW 36.70A.030</td>
<td>WAC 365-190-030 WAC 365-196-200</td>
</tr>
</tbody>
</table>
II: Responsiveness Summary

Commerce received no comments on the proposal.

General Comments

Commerce received no comments on the proposal.

III: Differences between proposed and adopted rule

This section summarizes differences between the proposed rules and the final adopted rules. You can also find more about the comments and detail on changes in the relevant section under II: Responsiveness Summary.

Chapter 365-196 WAC

There were no changes made between the proposed and adopted rule.