Chapter 43.21C RCW
STATE ENVIRONMENTAL POLICY

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Economic policy: Chapter 43.21H RCW.

RCW 43.21C.010 Purposes. The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between humankind and the environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and [to] stimulate the health and welfare of human beings; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation. [2009 c 549 s 5095; 1971 ex.s. c 109 s 1.]

RCW 43.21C.020 Legislative recognitions—Declaration—Responsibility. (1) The legislature, recognizing that a human being depends on biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound impact of a human being's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to

use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) create and maintain conditions under which human beings and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. [2009 c 549 s 5096; 1971 ex.s. c 109 s 2.]

RCW 43.21C.030 Guidelines for state agencies, local governments—Statements—Reports—Advice—Information. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on the environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects. [2010 c 8 s 7002; 1971 ex.s. c 109 s 3.]

RCW 43.21C.0301 Decisions not subject to RCW 43.21C.030. (1) Decisions made under RCW 36.70A.720 pertaining to work plans, as defined in RCW 36.70A.703, are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions made by a county under RCW 36.70A.710 on whether to participate in the voluntary stewardship program established by RCW 36.70A.705 are not subject to the requirements of RCW 43.21C.030(2)(c). [2011 c 360 s 19.]

Purpose—Intent—Conflict with federal requirements—2011 c 360: See RCW 36.70A.700 and 36.70A.904.

RCW 43.21C.031 Significant impacts. (1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The

substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) and 43.21C.450 do not require environmental review or the preparation of an environmental impact statement under this chapter.

(2) An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong. [2012 1st sp.s. c 1 s 302; 1995 c 347 s 203; 1983 c 117 s 1.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.0311 Final environmental impact statements—Expeditious manner—Time limit—Reports. (1) A lead agency shall aspire to prepare a final environmental impact statement required by RCW 43.21C.030(2) in as expeditious a manner as possible while not compromising the integrity of the analysis.

(a) For even the most complex government decisions associated with a broad scope of possible environmental impacts, a lead agency shall aspire to prepare a final environmental impact statement required by RCW 43.21C.030(2) within twenty-four months of a threshold determination of a probable significant, adverse environmental impact.

(b) Wherever possible, a lead agency shall aspire to far outpace the twenty-four month time limit established in this section for more commonplace government decisions associated with narrower and more easily identifiable environmental impacts.

(2) Beginning December 31, 2018, and every two years thereafter, the department of ecology must submit a report on the environmental impact statements produced by state agencies and local governments to the appropriate committees of the legislature. The report must include data on the average time, and document the range of time, it took to complete environmental impact statements within the previous two years.

(3) Nothing in this section creates any civil liability for a lead agency or creates a new cause of action against a lead agency. [2017 c 289 s 2.]

Finding—Intent—2017 c 289: "The legislature finds that the analysis of environmental impacts required under the state environmental policy act adds value to government decision-making processes in Washington state and helps minimize the potential environmental harm coming from those government decisions. However, the legislature also recognizes that excessive delays in the environmental impact analysis process adds uncertainty and burdensome costs to those seeking to do business in the state of Washington. Therefore, it is the intent of the legislature to promote timely completion of state environmental policy act processes. In doing so, the legislature intends to restore balance between the need to carefully consider environmental impacts and the need to maintain the economic competitiveness of state businesses." [2017 c 289 s 1.]

RCW 43.21C.033 Threshold determination to be made within ninety days after application is complete. (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of *RCW 36.70B.090. [1995 c 347 s 422; 1992 c 208 s 1.]

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 s 8.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Effective date—1992 c 208 s 1: "Section 1 of this act shall take effect September 1, 1992." [1992 c 208 s 2.]

RCW 43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 s 1.]

RCW 43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 ex.s. c 150 s 1.]

RCW 43.21C.036 Hazardous substance remedial actions—Procedural requirements and documents to be integrated. In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70A.305 RCW. Such integration shall at a minimum include the public participation procedures of chapter 70A.305 RCW and the public notice and review requirements of this chapter. [2020 c 20 s 1039; 1994 c 257 s 21.]

Severability—1994 c 257: See note following RCW 36.70A.270.

RCW 43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices. (1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices:

(a) On forestlands that are being converted to another use; or

(b) On lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining

that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. [2011 c 207 s 3; 1997 c 173 s 6; 1983 c 117 s 2; 1981 c 290 s 1.]

RCW 43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures. Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors. [1983 c 109 s 1.]

RCW 43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits. Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70A.15.2260 are not subject to the requirements of RCW 43.21C.030(2)(c). [2020 c 20 s 1040; 1995 c 172 s 1.]

RCW 43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects—Fish habitat enhancement projects. (1) Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions pertaining to fish habitat enhancement projects meeting the criteria of RCW 77.55.181 and being reviewed and approved according to the provisions of RCW 77.55.181 are not subject to the requirements of RCW 43.21C.030(2)(c). [2014 c 120 s 16; 2003 c 39 s 23; 1998 c 249 s 12; 1995 c 378 s 12.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

RCW 43.21C.0383 Application of RCW 43.21C.030(2)(c) to waste discharge permits. The following waste discharge permit actions are not subject to the requirements of RCW 43.21C.030(2)(c):

(1) For existing discharges, the issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules;

(2) The issuance of a construction stormwater general permit under chapter 90.48 RCW for a proposal disturbing less than five acres. The exemption in this subsection does not apply if, under rules adopted by the department of ecology, the proposal would otherwise be subject to the requirements of RCW 43.21C.030(2)(c). [2008 c 37 s 2; 1996 c 322 s 1.]

Intent—2008 c 37: "The legislature intends that the revised threshold adopted in 2005 for the department of ecology's construction stormwater general permit should not increase the scope of projects subject to state environmental policy act review. The department of

ecology should pursue rule making to achieve the intent of this act." [2008 c 37 s 1.]

RCW 43.21C.0384 Application of RCW 43.21C.030(2)(c) to wireless services facilities—Reporting requirement—Definitions. (1) Decisions pertaining to applications to site wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures does not substantially change the physical dimensions of such structures; or

(b) The siting project involves constructing a wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone. This exemption does not apply to projects within a designated critical area.

(2) The exemption authorized under subsection (1) of this section may only be applied to a project consisting of a series of actions when all actions in the series are categorically exempt and the actions together do not have a probable significant adverse environmental impact.

(3) The department of ecology shall adopt rules to create a categorical exemption for wireless service facilities that meet the conditions set forth in subsections (1) and (2) of this section.

(4) By January 1, 2020, all wireless service providers granted an exemption to RCW 43.21C.030(2)(c) must provide the legislature with the number of permits issued pertaining to wireless service facilities, the number of exemptions granted under this section, and the total dollar investment in wireless service facilities between July 1, 2013, and June 30, 2019.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Collocation" means the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

(b) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(c) "Substantially change the physical dimensions" means:

(i) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(ii) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(d) "Wireless service facilities" means facilities for the provision of wireless services.

(e) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations. [2013 c 317 s 1; 1996 c 323 s 2.]

Alphabetization—2013 c 317: "The code reviser is directed to put the defined terms in RCW 43.21C.0384(5) into alphabetical order." [2013 c 317 s 2.]

Findings—1996 c 323: See note following RCW 43.70.600.

RCW 43.21C.039 Metals mining and milling operations—Environmental impact statements required. Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050. [1994 c 232 s 25.]

Effective date—1994 c 232 ss 1-5, 9-17, and 23-31: See RCW 78.56.901.

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

RCW 43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities—Report of deficiencies and corrective measures. All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 s 4.]

RCW 43.21C.050 Specific statutory obligations not affected. Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 s 5.]

RCW 43.21C.060 Chapter supplementary—Conditioning or denial of governmental action. The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant

to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decision maker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1983 c 117 s 3; 1977 ex.s. c 278 s 2; 1971 ex.s. c 109 s 6.]

RCW 43.21C.065 Impact fees and fees for system improvements. A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements. [1992 c 219 s 1.]

RCW 43.21C.075 Appeals. (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall allow no more than one agency appeal proceeding on each procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement);

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision or recommendation on a proposal and

any environmental determinations made under this chapter, with the exception of:

(i) An appeal of a determination of significance;

(ii) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

(iii) An appeal of a procedural determination made by an agency on a nonproject action; or

(iv) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an administrative appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the

party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and the certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorneys' fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis. [1997 c 429 s 49; 1995 c 347 s 204; 1994 c 253 s 4; 1983 c 117 s 4.]

Severability—1997 c 429: See note following RCW 36.70A.3201.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. [1995 c 347 s 205; 1977 ex.s. c 278 s 1; 1974 ex.s. c 179 s 2; 1973 1st ex.s. c 179 s 2.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 s 1.]

Effective date—1973 1st ex.s. c 179: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 s 4.]

RCW 43.21C.087 List of filings required by RCW 43.21C.080. The department of ecology shall prepare a list of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the

project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 ex.s. c 179 s 14.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.090 Decision of governmental agency to be accorded substantial weight. In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 s 3.]

Effective date—1973 1st ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.095 State environmental policy act rules to be accorded substantial deference. The rules adopted under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter. [2012 1st sp.s. c 1 s 312; 1983 c 117 s 5.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

RCW 43.21C.110 Content of state environmental policy act rules. It shall be the duty and function of the department of ecology:

(1) To adopt and amend rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule adoption. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules

shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of commerce and shall be applicable to the preparation

of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures and criteria to analyze planned actions under RCW 43.21C.440 and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or procedures adopted by a county, city, or town to implement the provisions of chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW. [2012 1st sp.s. c 1 s 311; 1997 c 429 s 47; 1995 c 347 s 206; 1983 c 117 s 7; 1974 ex.s. c 179 s 6.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.120 Rules, ordinances, resolutions and regulations—Adoption—Effective dates. (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of polices [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to

RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section. [1983 c 117 s 8; 1974 ex.s. c 179 s 8.]

***Reviser's note:** RCW 34.05.538 was repealed by 1989 c 175 s 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.130 Model ordinances. The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter. [1974 ex.s. c 179 s 10.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference. (1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of

the contents of the sections of the Washington Administrative Code referred to. Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to. [1975-'76 2nd ex.s. c 99 s 1.]

RCW 43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 s 1; 1974 ex.s. c 179 s 12.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement *chapter 90.62 RCW—Utilization of *chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c). In the implementation of *chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to *chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 ex.s. c 179 s 13.]

***Reviser's note:** Chapter 90.62 RCW was repealed by 1995 c 347 s 619.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.170 Council on environmental policy. The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter. [1983 c 117 s 6; 1974 ex.s. c 179 s 4. Formerly RCW 43.21C.100.]

RCW 43.21C.175 Council on environmental policy—Personnel. The council may employ such personnel as are necessary for the performances of its duties. [1974 ex.s. c 179 s 5. Formerly RCW 43.21C.105.]

RCW 43.21C.210 Certain actions during state of emergency exempt from chapter. This chapter does not apply to actions authorized by RCW 70A.10.200 and 70A.10.210 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210. [2020 c 20 s 1041; 1981 c 278 s 4.]

RCW 43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempted from compliance with this chapter. [1982 c 220 s 6.]

Severability—1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from chapter: RCW 36.93.170.

RCW 43.21C.222 Annexation by city or town exempt from chapter. Annexation of territory by a city or town is exempted from compliance with this chapter. [1994 c 216 s 19.]

Effective date—1994 c 216: See note following RCW 35.02.015.

RCW 43.21C.225 Consolidation and annexation of cities and towns exempt from chapter. Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter. [1985 c 281 s 29.]

RCW 43.21C.227 Disincorporation of a city or town or reduction of city or town limits exempt from chapter. (1) The disincorporation of a city or town is exempt from compliance with this chapter.

(2) The reduction of city or town limits is exempt from compliance with this chapter. [2002 c 93 s 2.]

Intent—2002 c 93: "Incorporations and annexations are exempt from the state environmental policy act. However, there are no comparable exemptions for reductions of city limits or disincorporations. It is the legislature's intent to provide that a reduction in city limits or disincorporation is not subject to the state environmental policy act." [2002 c 93 s 1.]

RCW 43.21C.229 Infill and housing development—Categorical exemptions from chapter. (1) The purpose of this section is to accommodate infill and housing development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW.

(2) A city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the

requirements of this chapter. An exemption may be adopted by a city or county under this subsection if it meets the following criteria:

(a) It categorically exempts government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to 65,000 square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

(3) All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area designated pursuant to RCW 36.70A.110 or middle housing within the unincorporated areas in an urban growth area designated pursuant to RCW 36.70A.110, and that meet the criteria identified in (a) and (b) of this subsection, are categorically exempt from the requirements of this chapter. For purposes of this section, "middle housing" has the same meaning as in RCW 36.70A.030 as amended by chapter 332, Laws of 2023. Jurisdictions shall satisfy the following criteria prior to the adoption of the categorical exemption under this subsection (3):

(a) The city or county shall find that the proposed development is consistent with all development regulations implementing an applicable comprehensive plan adopted according to chapter 36.70A RCW by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of chapter 36.70A RCW; and

(b) The city or county has prepared environmental analysis that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section and analyzes multimodal transportation impacts, including impacts to neighboring jurisdictions, transit facilities, and the state transportation system.

(i) Such environmental analysis shall include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea

plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. The city or county must document its consultation with the department of transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation facilities.

(ii) Before finalizing the environmental analysis pursuant to (b)(i) of this subsection (3), the city or county shall provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public. If a city or county identifies that mitigation measures are necessary to address specific probable adverse impacts, the city or county must address those impacts by requiring mitigation identified in the environmental analysis pursuant to this subsection (3)(b) through locally adopted comprehensive plans, subarea plans, development regulations, or other applicable local ordinances and regulations. Mitigation measures shall be detailed in an associated environmental determination.

(iii) The categorical exemption is effective 30 days following action by a city or county pursuant to (b)(ii) of this subsection (3).

(4) Until September 30, 2025, all project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade mountains with a population of 700,000 or more are categorically exempt from the requirements of this chapter. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city may utilize the categorical exemption in subsection (3) of this section.

(5) All project actions that propose to develop residential or mixed-use development within a station area are categorically exempt from the requirements of this chapter, subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department. For the purpose of this subsection:

(a) "Mixed-use development" has the same meaning as provided in RCW 36.70A.840; and

(b) "Station area" has the same meaning as provided in RCW 36.70A.030.

(6) Any categorical exemption adopted by a city or county under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). Nothing in this section shall invalidate categorical exemptions or environmental review procedures adopted by a city or county under a planned action pursuant to RCW 43.21C.440. However, any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department. [2025 c 267 s 7; 2023 c 368 s 1; 2020 c 87 s 1; 2012 1st sp.s. c 1 s 304; 2003 c 298 s 1.]

Findings—2025 c 267: See note following RCW 36.70A.840.

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Severability—2003 c 298: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 298 s 3.]

RCW 43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter. This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW. [1983 c 161 s 29.]

Effective dates—1983 c 161: See RCW 43.180.904.

RCW 43.21C.240 Project review under the growth management act. (1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action shall determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply. Rules adopted by the department according to RCW 43.21C.110 regarding project specific impacts that may not have been adequately addressed apply to any determination made under this section. In these situations, in which all adverse environmental impacts will be mitigated below the level of significance as a result of mitigation measures included by changing, clarifying, or conditioning of the proposed action and/or regulatory requirements of development regulations adopted under chapter 36.70A RCW or other local, state, or federal laws, a determination of nonsignificance or a mitigated determination of nonsignificance is the proper threshold determination.

(2) A county, city, or town shall make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040. [2003 c 298 s 2; 1995 c 347 s 202.]

Severability—2003 c 298: See note following RCW 43.21C.229.

Findings—Intent—1995 c 347 s 202: "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review

process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide an agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 s 201.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.250 Forest practices board—Emergency rules—Exempt from chapter. The duration and process for adopting emergency rules by the forest practices board pertaining to forest practices and the protection of aquatic resources as provided in RCW 76.09.055 are exempt from the procedural requirements of this chapter. [1999 sp.s. c 4 s 203.]

Effective date—1999 sp.s. c 4 ss 201, 202, and 203: See note following RCW 76.09.055.

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 43.21C.260 Certain actions not subject to RCW 43.21C.030(2)(c)—Threshold determination on a watershed analysis. (1) Decisions pertaining to the following kinds of actions under chapter 4, Laws of 1999 sp. sess. are not subject to any procedural requirements implementing RCW 43.21C.030(2)(c): (a) Approval of forest road maintenance and abandonment plans under chapter 76.09 RCW and *RCW 77.55.100; (b) approval by the department of natural resources of future timber harvest schedules involving east-side clear cuts under rules implementing chapter 76.09 RCW; (c) acquisitions of forestlands in stream channel migration zones under RCW 76.09.040; and (d) acquisitions of conservation easements pertaining to forestlands in riparian zones under RCW 76.13.120.

(2) For purposes of the department's threshold determination on a watershed analysis, the department shall not make a determination of significance unless the prescriptions themselves, compared to rules or prescriptions in place prior to the analysis, will cause probable significant adverse impact on elements of the environment other than those addressed in the watershed analysis process. Nothing in this subsection shall be construed to effect the outcome of pending litigation regarding the department's authority in making a threshold determination on a watershed analysis. [2003 c 39 s 24; 1999 sp.s. c 4 s 1201.]

***Reviser's note:** RCW 77.55.100 was repealed by 2005 c 146 s 1006.

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 43.21C.300 Workshops—Handbook. The department of ecology shall conduct annual statewide workshops and publish an annual state environmental policy act handbook or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The workshops and handbook shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act. [1983 c 117 s 9.]

RCW 43.21C.400 Unfinished nuclear power projects—Council action exempt from this chapter. Council actions pursuant to the transfer of the site or portions of the site under RCW 80.50.300 are exempt from the provisions of this chapter. [1996 c 4 s 4.]

Energy facility site evaluation council: RCW 80.50.030.

RCW 43.21C.405 Nonproject environmental reviews of electrical transmission facilities. (1) The energy facility site evaluation council shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures for electrical transmission facilities with a nominal voltage of 230kV or greater.

(2) The scope of a nonproject environmental review is limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the electrical transmission facilities with a nominal voltage of 230kV or greater. The energy facility site evaluation council may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity

construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for electrical transmission facilities with a nominal voltage of 230kV or greater.

(3)(a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The energy facility site evaluation council shall consult with other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The energy facility site evaluation council shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of electrical transmission facilities with a nominal voltage of 230kV or greater, the energy facility site evaluation council shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for electrical transmission facilities with a nominal voltage of 230kV or greater, based on the climatic and geophysical attributes conducive to or required for project development. The energy facility site evaluation council will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the process.

(5) The energy facility site evaluation council must offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the nonproject review by early identification of tribal rights, interests, or resources,

including tribal cultural resources, potentially affected by the project type and identifying solutions, when possible, to avoid, minimize, or mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit review.

(6) Final nonproject environmental review documents for the electrical transmission facilities with a nominal voltage of 230kV or greater, where applicable, must include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts and areas where impacts are avoided or capable of being minimized or mitigated, creating a tool that may be used by project proponents, tribes, and government to inform decision making. Maps may not include confidential information, such as locations of sacred cultural sites or locations of populations of certain protected species.

(7) For transmission line projects utilizing an existing transmission right-of-way or that are located along a transportation corridor or transmission projects utilizing an existing transmission right-of-way, the reasonable alternatives analysis required under this section is limited to the proposed action and a no action alternative. [2023 c 229 s 6.]

Finding—Intent—2023 c 229: See note following RCW 19.280.030.

RCW 43.21C.408 Lead agency use of nonproject environmental impact statement for electrical transmission facility. (1) A lead agency conducting a project-level environmental review under this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must consider a nonproject environmental impact statement completed pursuant to RCW 43.21C.405 in order to identify and mitigate project-level probable significant adverse environmental impacts.

(2)(a) Project-level environmental review conducted pursuant to this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must begin with the review of the applicable nonproject environmental impact statement completed pursuant to RCW 43.21C.405. The review must address any probable significant adverse environmental impacts associated with the proposal that were not analyzed in the nonproject environmental impact statements pursuant to RCW 43.21C.405. The review must identify any mitigation measures specific to the project for probable significant adverse environmental impacts.

(b) Lead agencies reviewing site-specific project proposals for electrical transmission facilities with a nominal voltage of 230kV or greater shall use the nonproject review described in RCW 43.21C.405 through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 2023:

(i) Use of the nonproject review unchanged, in accordance with RCW 43.21C.034, if the project does not cause probable significant adverse environmental impact not identified in the nonproject review;

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

(3) Proposals for electrical transmission facilities with a nominal voltage of 230kV or greater following the recommendations developed in the nonproject environmental review completed pursuant to RCW 43.21C.405 are considered to have mitigated the probable significant adverse project-specific environmental impacts under this chapter for which recommendations were specifically developed unless the project-specific environmental review identifies project-level probable significant adverse environmental impacts not addressed in the nonproject environmental review. [2023 c 229 s 7.]

Finding—Intent—2023 c 229: See note following RCW 19.280.030.

RCW 43.21C.410 Battery charging and exchange station installation. (1) The installation of individual battery charging stations and battery exchange stations, which individually are categorically exempt under the rules adopted under RCW 43.21C.110, may not be disqualified from such categorically exempt status as a result of their being parts of a larger proposal that includes other such facilities and related utility networks under the rules adopted under RCW 43.21C.110.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2009 c 459 s 8.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

RCW 43.21C.420 Comprehensive plans and development regulations—Optional elements—Nonproject environmental impact statements—Subarea plans—Transfer of development rights program—Recovery of expenses. (1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(d) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(e) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forestland of long-term commercial significance. If the city decides not to

establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(e) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2029, a proposed development that meets the criteria of (b) of this subsection may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed the following time frames:

(i) Nineteen years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city as of July 28, 2019; or

(ii) Ten years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city after July 28, 2019.

(b) A proposed development may not be challenged, consistent with the timelines established in (a) of this subsection, so long as the development:

(i) Is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section;

(ii) Sets aside or requires the occupancy of at least ten percent of the dwelling units, or a greater percentage as determined by city development regulations, within the development for low-income households at a sale price or rental amount that is considered affordable by a city's housing programs. This subsection (5)(b)(ii) applies only to projects that are consistent with an optional element adopted by a city pursuant to this section after July 28, 2019; and

(iii) Is environmentally reviewed under subsection (4) of this section.

(c) After July 1, 2029, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2029. After July 1, 2029, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2029.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover or apply for a grant or loan to prospectively cover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits from, as described in subsection (5) of this section, the nonproject environmental impact statement prepared by the city. Any assessment

fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter. [2019 c 348 s 7; 2010 c 153 s 2.]

Intent—2010 c 153: "It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW." [2010 c 153 s 1.]

RCW 43.21C.428 Recovery of expenses of nonproject environmental impact statements—Fees for subsequent development. (1) A county, city, or town may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under RCW 43.21C.229 and 43.21C.440:

(a) Through access to financial assistance under RCW 36.70A.490;

(b) With funding from private sources; and

(c) By the assessment of fees consistent with the requirements and limitations of this section.

(2)(a) A county, city, or town is authorized to assess a fee upon subsequent development that will make use of and benefit from: (i) The analysis in an environmental impact statement prepared for the purpose of compliance with RCW 43.21C.440 regarding planned actions; or (ii) the reduction in environmental analysis requirements resulting from the exercise of authority under RCW 43.21C.229 regarding infill development.

(b) The amount of the fee must be reasonable and proportionate to the total expenses incurred by the county, city, or town in the preparation of the environmental impact statement.

(c) Counties, cities, and towns are not authorized by this section to assess fees for general comprehensive plan amendments or updates.

(3) A county, city, or town assessing fees under subsection (2)(a) of this section must provide for a mechanism by which project proponents may either elect to utilize the environmental review completed by the lead agency and pay the fees under subsection (1) of this section or certify that they do not want the local jurisdiction to utilize the environmental review completed as a part of a planned action and therefore not be assessed any associated fees. Project proponents who choose this option may not make use of or benefit from the up-front environmental review prepared by the local jurisdiction.

(4) Prior to the collection of fees, the county, city, or town must enact an ordinance that establishes the total amount of expenses to be recovered through fees and provides objective standards for determining the fee amount to be imposed upon each development proposal proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental review. The ordinance must provide: (a) A procedure by which an applicant who disagrees with whether the amount of the fee is correct, reasonable, or proportionate may pay the fee with the written stipulation "paid under protest"; and (b) if the county, city, or town provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeals process. Any disagreement about the reasonableness, proportionality, or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development.

(5) The ordinance adopted under subsection (4) of this section must make information available about the amount of the expenses designated for recovery. When these expenses have been fully recovered, the county, city, or town may no longer assess a fee under this section.

(6) Any fees collected under this section from subsequent development may be used to reimburse funding received from private sources to conduct the environmental review.

(7) The county, city, or town shall refund fees collected where a court of competent jurisdiction determines that the environmental review conducted under RCW 43.21C.440, regarding planned actions, or under RCW 43.21C.229, regarding infill development, was not sufficient to comply with the requirements of this chapter regarding the proposed development activity for which the fees were collected. The applicant and the county, city, or town may mutually agree to a partial refund or to waive the refund in the interest of resolving any dispute regarding compliance with this chapter. [2013 c 243 s 1.]

RCW 43.21C.430 Certain fish protection standards exempt from compliance with chapter. The incorporation of fish protection standards adopted under chapter 77.55 RCW into the forest practices rules as required under RCW 76.09.040(3) is exempt from compliance with this chapter. [2012 1st sp.s. c 1 s 213.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

RCW 43.21C.440 Planned action—Defined—Authority of a county, city, or town—Community meetings. (1) For purposes of this chapter, a planned action means one or more types of development or redevelopment that meet the following criteria:

(a) Are designated as planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(b) In conjunction with, or to implement, a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or a fully contained community, a master planned resort, a master planned development, or a phased project, have had the significant impacts adequately addressed:

(i) In an environmental impact statement under the requirements of this chapter; or

(ii) In a threshold determination or, where one is appropriate, in an environmental impact statement under the requirements of this chapter, if the planned action contains mixed-use or residential development and encompasses an area that:

(A) Is within one-half mile of a major transit stop; or

(B) Will be within one-half mile of a major transit stop no later than five years from the date of the designation of the planned action;

(c) Have had project level significant impacts adequately addressed in a threshold determination or, where one is required under (b) of this subsection or where otherwise appropriate, an environmental impact statement, unless the impacts are specifically deferred for consideration at the project level pursuant to subsection (3)(b) of this section;

(d) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;

(e) Are located within an urban growth area designated pursuant to RCW 36.70A.110;

(f) Are not essential public facilities, as defined in RCW 36.70A.200, unless an essential public facility is accessory to or part of a residential, office, school, commercial, recreational, service, or industrial development that is designated a planned action under this subsection; and

(g) Are consistent with a comprehensive plan or subarea plan adopted under chapter 36.70A RCW.

(2) A county, city, or town shall define the types of development included in the planned action and may limit a planned action to:

(a) A specific geographic area that is less extensive than the jurisdictional boundaries of the county, city, or town; or

(b) A time period identified in the ordinance or resolution adopted under this subsection.

(3)(a) A county, city, or town shall determine during permit review whether a proposed project is consistent with a planned action ordinance adopted by the jurisdiction. To determine project consistency with a planned action ordinance, a county, city, or town may utilize a modified checklist pursuant to the rules adopted to implement RCW 43.21C.110, a form that is designated within the planned action ordinance, or a form contained in agency rules adopted pursuant to RCW 43.21C.120.

(b) A county, city, or town is not required to make a threshold determination and may not require additional environmental review, for a proposal that is determined to be consistent with the development or redevelopment described in the planned action ordinance, except for impacts that are specifically deferred to the project level at the time of the planned action ordinance's adoption. At least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action and notice of the community meeting required by this subsection (3)(b) must be mailed or otherwise verifiably provided to: (i) All affected federally recognized tribal governments; and (ii) agencies with jurisdiction over the future development anticipated for the planned action. The determination of consistency, and the adequacy of any environmental review that was specifically deferred, are subject to the type of administrative appeal that the county, city, or town provides for the proposal itself consistent with RCW 36.70B.060.

(4) For a planned action ordinance that encompasses the entire jurisdictional boundary of a county, city, or town, at least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action ordinance and notice of the community meeting required by this subsection must be mailed or otherwise verifiably provided to:

(a) All property owners of record within the county, city, or town;

(b) All affected federally recognized tribal governments; and

(c) All agencies with jurisdiction over the future development anticipated for the planned action.

(5) For purposes of this section, "major transit stop" means a commuter rail stop, a stop on a rail or fixed guideway or transitway system, or a stop on a high capacity transportation service funded or expanded under chapter 81.104 RCW. [2017 3rd sp.s. c 16 s 7; 2012 1st sp.s. c 1 s 303.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

RCW 43.21C.450 Nonproject actions exempt from requirements of chapter. The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

(a) Increased protections for critical areas, such as enhanced buffers or setbacks;

(b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and

(c) Increased vegetation retention or decreased impervious surface areas in critical areas;

(4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:

(a) Building codes required by chapter 19.27 RCW;

(b) Energy codes required by chapter 19.27A RCW; and

(c) Electrical codes required by chapter 19.28 RCW;

(5) Adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with RCW 35A.21.440 and 35.21.990;

(6) Amendments to development regulations to remove requirements for parking from development proposed to fill in an urban growth area designated according to RCW 36.70A.110. [2023 c 332 s 9; 2023 c 285 s 4; 2012 1st sp.s. c 1 s 307.]

Reviser's note: This section was amended by 2023 c 285 s 4 and by 2023 c 332 s 9, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—2023 c 332: See note following RCW 36.70A.635.

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

RCW 43.21C.460 Environmental checklist—Authority of lead agency—Limitations of section. (1) The lead agency for an environmental review under this chapter utilizing an environmental checklist developed by the department of ecology pursuant to RCW 43.21C.110 may identify within the checklist provided to applicants instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority.

(2) If a lead agency identifies an instance as described in subsection (1) of this section, it still must consider whether the action has an impact on the particular element or elements of the environment in question.

(3) In instances where the locally adopted ordinance, development regulation, land use plan, or other legal authority provide the necessary information to answer a specific question, the lead agency must explain how the proposed project satisfies the underlying local legal authority.

(4) If the lead agency identifies instances where questions on the checklist are adequately covered by a locally adopted ordinance,

development regulation, land use plan, or other legal authority, an applicant may still provide answers to any questions on the checklist.

(5) Nothing in this section authorizes a lead agency to ignore or delete a question on the checklist.

(6) Nothing in this section changes the standard for whether an environmental impact statement is required for an action that may have a probable significant, adverse environmental impact pursuant to RCW 43.21C.030.

(7) Nothing in this section affects the appeal provisions provided in this chapter.

(8) Nothing in this section modifies existing rules for determining the lead agency, as defined in WAC 197-11-922 through 197-11-948, nor does it modify agency procedures for complying with the state environmental policy act when an agency other than a local government is serving as the lead agency. [2012 1st sp.s. c 1 s 308.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

RCW 43.21C.470 Categorical exemption for structurally deficient bridges—Definition. (1) The department [of ecology] must amend the categorical exemption available to Washington department of transportation projects under WAC 197-11-800(26) as of July 24, 2015, so that the same categorical exemption applies to structurally deficient city, town, or county bridge repair or replacement projects.

(2) For purposes of this section, "structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency. [2015 c 144 s 1.]

RCW 43.21C.480 Repair or replacement of structurally deficient state bridges exempt from chapter. The repair or replacement of a state bridge deemed structurally deficient, as defined in RCW 47.04.010, is exempt from compliance with this chapter as long as the action occurs within the existing right-of-way, except that the repair or replacement may occur outside the existing right-of-way as needed to meet current engineering standards or state or local environmental permit requirements for highway construction as long as the repair or replacement does not result in additional lanes for automobiles. The issuance of applicable state and local agency permits or approvals associated with the repair or replacement of such bridges is also included in this exemption from compliance with this chapter. [2015 3rd sp.s. c 10 s 2.]

Effective date—2015 3rd sp.s. c 10: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 10 s 5.]

Findings—Intent—2015 3rd sp.s. c 10: "The legislature finds that, as of November 2014, there were one hundred thirty state-owned bridges classified as structurally deficient. The legislature further finds that a span of the Skagit river bridge on Interstate 5, the Trooper Sean M. O'Connell Jr. Memorial bridge, recently collapsed when an oversized load struck the trusses that supported the bridge. Although the Skagit river bridge was not considered structurally deficient, this event underscores the importance of remedying bridge structural deficiencies as efficiently and expeditiously as possible. Thus, it is the intent of the legislature to provide for expedited permitting and contracting for state bridges identified as structurally deficient by the Washington state department of transportation." [2015 3rd sp.s. c 10 s 1.]

RCW 43.21C.490 Formation of community facilities districts exempt from this chapter. The formation of a community facilities district under chapter 36.145 RCW is exempted from compliance with this chapter, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not otherwise exempt under state law or rule. [2019 c 260 s 2.]

RCW 43.21C.495 Adoption of ordinances, development regulations, and other nonproject actions—Certain actions not subject to administrative or judicial appeals. (1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under RCW 36.70A.635 pursuant to RCW 36.70A.636(3)(b) are not subject to administrative or judicial appeals under this chapter.

(3) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city or county consistent with the requirements of RCW 36.70A.680 and 36.70A.681, or such actions taken by a city pursuant to RCW 35.21.995 or 35A.21.450, are not subject to administrative or judicial appeals under this chapter.

(4) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions by a city or county to implement the housing element requirements set forth in RCW 36.70A.070(2) are not subject to administrative or judicial appeals under this chapter.

(5) Adoption of ordinances, development regulations, amendments to such regulations, and other nonproject actions taken by a county to implement RCW 36.70A.536 are not subject to administrative or judicial appeals under this chapter. [2025 c 386 s 2; 2025 c 269 s 6; 2025 c 241 s 3. Prior: 2023 c 334 s 6; 2023 c 332 s 8; 2022 c 246 s 3; 2020 c 173 s 2; 2019 c 348 s 4.]

Reviser's note: This section was amended by 2025 c 241 s 3, 2025 c 269 s 6, and by 2025 c 386 s 2, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

State representation—Short title—2025 c 269: See notes following RCW 36.70A.835.

Findings—Intent—2023 c 334: See note following RCW 36.70A.680.

Finding—2023 c 332: See note following RCW 36.70A.635.

RCW 43.21C.497 Other actions not subject to appeal. The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to RCW 36.70A.070(9) (d) or (e) in order to implement measures specified by the department of commerce pursuant to RCW 70A.45.120 are not subject to administrative or judicial appeals under this chapter. [2023 c 228 s 13.]

RCW 43.21C.501 Certain project actions evaluated under this chapter by a city or town planning under RCW 36.70A.040—When exempt from appeals under this chapter. (1) Project actions described in this section that pertain to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 are exempt from appeals under this chapter on the basis of the evaluation of or impacts to the following elements of the environment, provided that the appropriate requirements for a particular element of the environment, as set forth in subsections (2) and (3) of this section, are met.

(2)(a) Transportation. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to transportation elements of the environment, so long as the project is:

(i)(A) Consistent with a locally adopted transportation plan; or

(B) Consistent with the transportation element of a comprehensive plan; and

(ii)(A) A project for which traffic or parking impact fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or

(B) A project for which traffic or parking impacts are mitigated by an ordinance, or ordinances, of general application adopted by the city or town.

(b) The exemption under this subsection (2) does not apply if the department of transportation has found that the project will present significant adverse impacts to the state-owned transportation system.

(3)(a) Aesthetics. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to the aesthetics element of the environment, so long as the project is subject to design review pursuant to adopted design review requirements at the local government level.

(b) Light and glare. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to the light and glare element of the environment, so long as the project is subject to design review pursuant to adopted design review requirements at the local government level.

(4) For purposes of this section:

(a) "Design review" means a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance.

(b) "Impacts to transportation elements of the environment" include impacts to transportation systems; vehicular traffic; waterborne, rail, and air traffic; parking; movement or circulation of people or goods; and traffic hazards. [2022 c 246 s 4; 2019 c 348 s 6.]

RCW 43.21C.503 Exempt projects—Environmental checklist not required. Any applicant whose project qualifies as exempt or categorically exempt under either this chapter or under rules adopted pursuant to this chapter is not required to file an environmental checklist if other information is available to establish that a project qualifies for an exemption. [2022 c 246 s 6.]

RCW 43.21C.520 Review of greenhouse gas emissions from a new or expanded facility. The review under this chapter of greenhouse gas emissions from a new or expanded facility subject to the greenhouse gas emission reduction requirements of chapter 70A.65 RCW must occur consistent with RCW 70A.65.080(9). [2021 c 316 s 34.]

Short title—2021 c 316: See RCW 70A.65.900.

RCW 43.21C.525 Model ordinances created under RCW 70A.207.030—Certain actions not subject to the requirements of this chapter. ***(Effective until January 1, 2028.)*** Amendments to regulations and other nonproject actions taken by a city or county to adopt or implement the model ordinance created by the department under RCW 70A.207.030 is not subject to the requirements of this chapter. [2022 c 180 s 406.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 43.21C.525 Model ordinances created under RCW 70A.207.030 and 43.63A.772—Certain actions not subject to the requirements of

this chapter. ***(Effective January 1, 2028.)*** Amendments to regulations and other nonproject actions taken by a city or county to adopt or implement the model ordinance created by the department under RCW 70A.207.030 or by a county to adopt or implement the model ordinance created by the department of commerce under RCW 43.63A.772 are not subject to the requirements of this chapter. [2026 c 260 s 302; 2022 c 180 s 406.]

Intent—2026 c 260: See note following RCW 43.63A.770.

Effective date—2026 c 260: See note following RCW 82.96.005.

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 43.21C.530 Clean energy projects. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alternative energy resource" has the same meaning as defined in RCW 80.50.020.

(b) "Alternative jet fuel" has the same meaning as defined in RCW 43.158.010.

(c) "Associated facilities" has the same meaning as defined in RCW 43.158.010.

(d) "Clean energy product manufacturing facility" has the same meaning as defined in RCW 43.158.010.

(e) "Clean energy project" has the same meaning as defined in RCW 43.158.010.

(f) "Closely related proposals" means proposals that:

(i) Cannot or will not proceed unless the other proposals, or parts of proposals, are implemented simultaneously with them; or

(ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

(g) "Green electrolytic hydrogen" has the same meaning as defined in RCW 80.50.020.

(h) "Green hydrogen carrier" has the same meaning as defined in RCW 80.50.020.

(i) "Renewable hydrogen" has the same meaning as defined in RCW 80.50.020.

(j) "Renewable natural gas" has the same meaning as defined in RCW 80.50.020.

(k) "Renewable resource" has the same meaning as defined in RCW 80.50.020.

(l) "Storage facility" has the same meaning as defined in RCW 80.50.020.

(2)(a) After the submission of an environmental checklist and prior to issuing a threshold determination that a clean energy project proposal is likely to cause a probable significant adverse environmental impact consistent with RCW 43.21C.033, the lead agency must notify the project applicant and explain in writing the basis for its anticipated determination of significance. Prior to issuing the threshold determination of significance, the lead agency must give the project applicant the option of withdrawing and revising its application and the associated environmental checklist. The lead

agency shall make its threshold determination based upon the changed or clarified application and associated environmental checklist. The responsible official has no more than 30 days from the date of the resubmission of a clarified or changed application to make a threshold determination, unless the applicant makes material changes that substantially modify the impact of the proposal, in which case the responsible official must treat the resubmitted clarified or changed application as new, and is subject to the timelines established in RCW 43.21C.033.

(b) The notification required under (a) of this subsection is not an official determination by the lead agency and is not subject to appeal under this chapter.

(c) Nothing in this subsection amends the requirements of RCW 43.21C.033 as they apply to proposals that are not for clean energy projects and nothing in this subsection precludes the lead agency from allowing an applicant for a proposal that is not a clean energy project to follow application processes similar to or the same as the application processes identified in this subsection.

(3)(a) When an environmental impact statement is required, a lead agency shall prepare a final environmental impact statement for clean energy projects within 24 months of a threshold determination of a probable significant, adverse environmental impact.

(b) A lead agency may work with clean energy project applicants to set or extend a time limit longer than 24 months under (a) of this subsection, provided the:

(i) Applicant agrees to a longer time limit; and

(ii) Responsible official for the lead agency maintains an updated schedule available for public review.

(c) For all clean energy projects that require the preparation of an environmental impact statement, the lead agency shall work collaboratively with applicants and all agencies that will have actions requiring review under this chapter to develop a schedule that shall:

(i) Include a list of, and roles and responsibilities for, all entities that have actions requiring review under this chapter for the project;

(ii) Include a comprehensive schedule of dates by which review under this chapter will be completed, all actions requiring review under this chapter will be taken, and the public will have an opportunity to participate;

(iii) Be completed within 60 days of issuance of a determination of significance;

(iv) Be updated as needed, but no later than 30 days of missing a date on the schedule; and

(v) Be available for public review on the state environmental policy act register.

(d) A lead agency may fulfill its responsibilities under this subsection with a coordinated project plan prepared pursuant to 42 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under (c)(ii) of this subsection.

(e) A failure to comply with the requirements in this subsection is not subject to appeal and does not provide a basis for the invalidation of the review by an agency under this chapter. Nothing in this subsection creates any civil liability for an agency or creates a new cause of action against an agency.

(f) For clean energy projects, the provisions of this subsection are in addition to the requirements of RCW 43.21C.0311.

(4) This subsection provides clarifications on the content of review under this chapter specific to clean energy projects.

(a) In defining the proposal that is the subject of review under this chapter, a lead agency may not combine the evaluation of a clean energy project proposal with other proposals unless the:

(i) Proposals are closely related; or

(ii) Applicant agrees to combining the proposals' evaluation.

(b) An agency with authority to impose mitigation under RCW 43.21C.060 may require mitigation measures for clean energy projects only to address the environmental impacts that are attributable to and caused by a proposal. [2023 c 230 s 301.]

Findings—Intent—2023 c 230: See note following RCW 43.394.010.

RCW 43.21C.535 Clean energy projects—Nonproject environmental impact statements. (1) The department of ecology shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures, for each of the following categories of clean energy projects, and colocated battery energy storage projects that may be included in such projects:

(a) Green electrolytic or renewable hydrogen projects;

(b) Utility-scale solar energy projects, which will consider the findings of the Washington State University least-conflict solar siting process; and

(c) Onshore utility-scale wind energy projects.

(2) The scope of a nonproject environmental review shall be limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the applicable clean energy type. The department of ecology may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for the applicable clean energy project type.

(3)(a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse

environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The department of ecology shall consult with federally recognized Indian tribes and other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The department of ecology shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of clean energy projects, the department of ecology shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for the applicable clean energy project type, based on the climatic and geophysical attributes conducive to or required for project development. The department of ecology will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the processes.

(5) The department of ecology will offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. Certain information obtained by the department of ecology under this section is exempt from disclosure consistent with RCW 42.56.300.

(6) Final nonproject environmental review documents for the clean energy projects identified in subsection (1) of this section, where applicable, shall include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts, creating a tool that may be used by project proponents, tribes, and government to inform decision making. The maps may not be used in the place of surveys on specific parcels of land or input of a potentially affected federally recognized Indian tribe regarding specific parcels.

(7) Following the completion of a nonproject review subject to this section, the interagency clean energy siting coordinating council created in RCW 43.394.010 must consider the findings and make recommendations to the legislature and governor on potential areas to designate as clean energy preferred zones for the clean energy project technology analyzed, and any taxation, regulatory, environmental review, or other benefits that should accrue to projects in such designated preferred zones.

(8) Nothing in this section prohibits or precludes projects from being located outside areas designated as clean energy preferred zones. [2023 c 230 s 302.]

Findings—Intent—2023 c 230: See note following RCW 43.394.010.

RCW 43.21C.538 Clean energy projects—Nonproject environmental impact statements—Lead agency use. (1) A lead agency conducting a project-level environmental review under this chapter of a clean energy project identified in RCW 43.21C.535(1) must consider a nonproject environmental impact statement prepared pursuant to RCW 43.21C.535 in order to identify and mitigate project-level probable significant adverse environmental impacts.

(2)(a) Project-level environmental review conducted pursuant to this chapter of a clean energy project identified in RCW 43.21C.535(1) must begin with review of the applicable nonproject environmental impact statement prepared pursuant to RCW 43.21C.535. The review must address any probable significant adverse environmental impacts associated with the proposal that were not analyzed in the nonproject environmental impact statements prepared pursuant to RCW 43.21C.535. The review must identify any mitigation measures specific to the project for probable significant adverse environmental impacts.

(b) Lead agencies reviewing site-specific project proposals for clean energy projects under this chapter shall use the nonproject review described in this section through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 2023:

(i) Use of the nonproject review unchanged, in accordance with RCW 43.21C.034, if the project does not cause any probable significant adverse environmental impact not identified in the nonproject review;

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

(3) Clean energy project proposals following the recommendations developed in the nonproject environment review completed pursuant to RCW 43.21C.535 must be considered to have mitigated the probable significant adverse project-specific environmental impacts under this chapter for which recommendations were specifically developed unless the project-specific environmental review identifies project-level probable significant adverse environmental impacts not addressed in the nonproject environmental review. [2023 c 230 s 303.]

Findings—Intent—2023 c 230: See note following RCW 43.394.010.

RCW 43.21C.540 Mitigation of light pollution at utility-scale wind energy facility—Actions exempt from requirements of this chapter. (1) Actions to mitigate light pollution at a utility-scale wind energy facility as required under RCW 70A.550.020, are categorically exempt from the requirements of this chapter.

(2) For the purposes of this section, "utility-scale wind energy facility" has the same meaning as defined in RCW 70A.550.010. [2023 c 344 s 6.]

RCW 43.21C.550 Environmental review document—Transit agency to prepare detailed statement. In the event of a disagreement over the scope of a transit project, state agencies, cities, and counties shall accept the detailed statement prepared by the transit agency under RCW 43.21C.030(2)(c) as the sole environmental review document, rather than conducting separate environmental reviews or preparing additional

detailed statements. Consistent with RCW 43.21C.150, when a transit agency has previously prepared an adequate detailed statement pursuant to the national environmental policy act of 1969 as part of a federally funded transit project, that national environmental policy act document shall satisfy the requirements under RCW 43.21C.030(2)(c). State agencies, cities, and counties shall adopt and rely on the national environmental policy act document for their environmental review and permitting processes, aligning applicable local documents accordingly. For purposes of this section, "transit agency" does not include a regional transit authority under chapter 81.112 RCW. [2025 c 417 s 605.]

Findings—Intent—2025 c 417: See note following RCW 82.38.030.

RCW 43.21C.560 Solar energy generation projects exempt from this chapter. The following actions are categorically exempt from the requirements of this chapter, except when undertaken wholly or partly on lands covered by water:

(1)(a) Except as provided in (b) of this subsection, the placement of an array of solar energy generation panels or associated equipment with a footprint of less than 1,000 square feet, or the construction of structures with a footprint of less than 1,000 square feet that support solar energy generation panels or associated equipment, when such arrays or structures are located on previously disturbed or developed lands including, but not limited to, driveways, lawns, patios, and walkways, and are not located on the portions of lands that are eligible for current use valuation under chapter 84.34 RCW as open space land, farm and agricultural land, or timberland;

(b) Multiple arrays or structures with a footprint of less than 1,000 square feet undertaken by the same owner or operator on the same parcel, as defined in RCW 17.10.010, that exceed 1,000 square feet in aggregate are deemed connected actions and are not eligible for the categorical exemption established in this subsection;

(2) The construction of structures that support solar energy generation panels or associated equipment on elevated structures located wholly over parking lots; and

(3) Solar energy generation and accompanying energy storage and electricity transmission and distribution when such facilities do not involve penetration of an asphalt or soil cap, are served by and accessible to emergency fire response services, as determined by the entity that would be lead agency for purposes of the chapter, and are located wholly on:

(a) Closed or capped portions of landfills; or

(b) Reclaimed or former surface mine lands. [2025 c 265 s 3.]

Findings—Intent—2025 c 265: See note following RCW 43.21F.100.

RCW 43.21C.570 Residential project permit applications—Local government responsible official. If a county, city, or town has designated a permit responsible official under RCW 36.70B.060 on a residential project permit application, that official must also be designated as the responsible official when the county, city, or town is the lead agency responsible for complying with the requirements of

this chapter related to the application for the residential project. [2026 c 235 s 10.]

RCW 43.21C.900 Short title. This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA". [1995 c 347 s 207; 1971 ex.s. c 109 s 7.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.911 Section headings not part of law—1983 c 117. Section headings as used in this act do not constitute any part of the law. [1983 c 117 s 14.]

RCW 43.21C.912 Applicability—1983 c 117. Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively. [1983 c 117 s 15.]

RCW 43.21C.914 Effective dates—1983 c 117. (1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 23, 1983].

(2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section. [1983 c 117 s 17.]