
HOUSE BILL 2253

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Fitzgibbon, Billig, and Jinkins

Read first time 01/10/12. Referred to Committee on Environment.

1 AN ACT Relating to modernizing the functionality of the state
2 environmental policy act without compromising the underlying intent of
3 the original legislation; amending RCW 43.21C.031, 43.21C.229,
4 43.21C.420, 36.70A.490, 36.70A.500, 82.02.020, 43.21C.110, and
5 43.21C.095; adding new sections to chapter 43.21C RCW; adding a new
6 section to chapter 82.02 RCW; adding new sections to chapter 36.70B
7 RCW; adding a new section to chapter 36.70 RCW; creating new sections;
8 providing expiration dates; and repealing RCW 36.70B.110.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW
11 to read as follows:

12 (1) The categorical exemption board is created to serve as the
13 rule-making body for the provisions of this chapter expressly indicated
14 in section 2 of this act. Rules adopted by the categorical exemption
15 board are complementary to, and have the same force and effect as, the
16 rules adopted by the department of ecology under RCW 43.21C.110.

17 (2) The categorical exemption board is composed of the following
18 members:

1 (a) The director of the department of ecology or the director's
2 designee, who is responsible for serving as the chair for all official
3 board actions;

4 (b) The commissioner of public lands or the commissioner's
5 designee;

6 (c) One county planning director, appointed by the governor, who is
7 responsible for the implementation of this chapter for his or her
8 county;

9 (d) One city planning director, appointed by the governor, who is
10 responsible for the implementation of this chapter for his or her city;

11 (e) One representative of statewide environmental interests,
12 appointed by the governor;

13 (f) One representative of statewide business interests, appointed
14 by the governor; and

15 (g) One representative of an Indian tribe, appointed by the
16 governor.

17 (3) Each member of the categorical exemption board shall serve
18 four-year terms, except that the governor may appoint initial members
19 to the board in staggered terms so that the terms of no more than two
20 gubernatorial appointees expire in the same calendar year.

21 (4) The principal office of the categorical exemption board must be
22 in Thurston county. However, official meetings may be held at any
23 location or time designated by the chair of the board. Regardless of
24 meeting location, members of the categorical exemption board may
25 participate in official board activities through conference calls or
26 other remote location meeting technologies.

27 (5) Members of the categorical exemption board that are not state
28 employees are entitled to reimbursement for travel expenses related to
29 participation on the board consistent with RCW 43.03.050 and 43.03.060.

30 (6) Clerical and research staff support to the categorical
31 exemption board must be provided by the department of ecology. Support
32 to the board must be provided within the existing resources of the
33 department of ecology to the level necessary for the board to fulfill
34 its purpose.

35 (7) All rules adopted by the department of ecology under RCW
36 43.21C.110 that are within the jurisdiction of the categorical
37 exemption board outlined in section 2 of this act remain in effect.

1 However, the categorical exemption board assumes all responsibility and
2 authority for amending the rules.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21C RCW
4 to read as follows:

5 (1) The rule-making powers of the categorical exemption board
6 created in section 1 of this act are limited to the following phases of
7 interpretation and implementation of this chapter:

8 (a) Categories of governmental actions that are not to be
9 considered as potential major actions significantly affecting the
10 quality of the environment, including categories pertaining to
11 applications for water right permits pursuant to chapters 90.03 and
12 90.44 RCW. The types of actions included as categorical exemptions in
13 the rules must be limited to those types that are not major actions
14 significantly affecting the quality of the environment. The rules must
15 provide for certain circumstances where actions that potentially are
16 categorically exempt require environmental review.

17 (b) The environmental checklist process outlined in WAC 197-11-960,
18 as it existed on the effective date of this section.

19 (2) The duty of the categorical exemption board is to ensure that
20 categorical exemptions from this chapter and the environmental
21 checklist process outlined in WAC 197-11-960 are updated periodically
22 to reflect current conditions, to reduce duplicative rules and
23 regulations, and to contain avoidable costs while still meeting the
24 environmental review objectives of this chapter.

25 (3)(a) The categorical exemption board may, after December 31,
26 2013, periodically update the categorical exemptions from this chapter,
27 and the rules implementing those exceptions, to achieve the board
28 purposes outlined in this section.

29 (b) The chair of the categorical exemption board must convene a
30 board meeting for the purposes of implementing (a) of this subsection
31 upon the petition of any board member to review a categorical exemption
32 or the rules implementing a categorical exemption.

33 (c) Any party may petition the categorical exemption board,
34 pursuant to chapter 34.05 RCW, for any rule making consistent with the
35 jurisdiction of the board as established in this section. However, the
36 chair of the board is not required to convene a meeting of the board
37 upon the petition of someone who is not a member of the board.

1 (4) All actions of the categorical exemption board must be
2 conducted consistent with chapter 34.05 RCW.

3 (5) An action that is categorically exempt under the rules adopted
4 by the categorical exemption board may not be conditioned or denied
5 under this chapter.

6 (6) The categorical exemption board may not adopt rules that:

7 (a) Relate to climate change; or

8 (b) Result in categorical exemptions that are lower than those that
9 were in effect on July 1, 2011.

10 NEW SECTION. **Sec. 3.** (1) The categorical exemption board created
11 in section 1 of this act must, by December 31, 2012, make immediate
12 changes to the categorical exemptions to chapter 43.21C RCW, and the
13 rules implementing those exemptions, to achieve the board purposes
14 outlined in section 2 of this act.

15 (2) The categorical exemption board must, by December 31, 2013,
16 adopt further updates to the categorical exemptions to chapter 43.21C
17 RCW, and the rules implementing those exemptions, to include higher
18 default levels and broader flexible levels than are specified in WAC
19 197-11-800(1)(c) as it existed on the effective date of this section.

20 (3) This section expires July 31, 2014.

21 **Sec. 4.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to
22 read as follows:

23 (1) An environmental impact statement (the detailed statement
24 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
25 legislation and other major actions having a probable significant,
26 adverse environmental impact. The environmental impact statement may
27 be combined with the recommendation or report on the proposal or issued
28 as a separate document. The substantive decisions or recommendations
29 shall be clearly identifiable in the combined document. Actions
30 categorically exempt under ~~((RCW 43.21C.110(1)(a)))~~ section 2 of this
31 act do not require environmental review or the preparation of an
32 environmental impact statement under this chapter. ~~((In a county,~~
33 ~~city, or town planning under RCW 36.70A.040, a planned action, as~~
34 ~~provided for in subsection (2) of this section, does not require a~~
35 ~~threshold determination or the preparation of an environmental impact~~

1 ~~statement under this chapter, but is subject to environmental review~~
2 ~~and mitigation as provided in this chapter.))~~

3 (2) An environmental impact statement is required to analyze only
4 those probable adverse environmental impacts which are significant.
5 Beneficial environmental impacts may be discussed. The responsible
6 official shall consult with agencies and the public to identify such
7 impacts and limit the scope of an environmental impact statement. The
8 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
9 sections of an environmental impact statement. Discussions of
10 significant short-term and long-term environmental impacts, significant
11 irrevocable commitments of natural resources, significant alternatives
12 including mitigation measures, and significant environmental impacts
13 which cannot be mitigated should be consolidated or included, as
14 applicable, in those sections of an environmental impact statement
15 where the responsible official decides they logically belong.

16 ~~((2)(a) For purposes of this section, a planned action means one~~
17 ~~or more types of project action that:~~

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

20 ~~(ii) Have had the significant impacts adequately addressed in an~~
21 ~~environmental impact statement prepared in conjunction with (A) a~~
22 ~~comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or~~
23 ~~(B) a fully contained community, a master planned resort, a master~~
24 ~~planned development, or a phased project;~~

25 ~~(iii) Are subsequent or implementing projects for the proposals~~
26 ~~listed in (a)(ii) of this subsection;~~

27 ~~(iv) Are located within an urban growth area, as defined in RCW~~
28 ~~36.70A.030;~~

29 ~~(v) Are not essential public facilities, as defined in RCW~~
30 ~~36.70A.200; and~~

31 ~~(vi) Are consistent with a comprehensive plan adopted under chapter~~
32 ~~36.70A RCW.~~

33 ~~(b) A county, city, or town shall limit planned actions to certain~~
34 ~~types of development or to specific geographical areas that are less~~
35 ~~extensive than the jurisdictional boundaries of the county, city, or~~
36 ~~town and may limit a planned action to a time period identified in the~~
37 ~~environmental impact statement or the ordinance or resolution adopted~~
38 ~~under this subsection.))~~

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.21C RCW
2 to read as follows:

3 (1) For purposes of this chapter, a planned action means one or
4 more types of development or redevelopment that meet the following
5 criteria:

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

8 (b) Have had the significant impacts adequately addressed in an
9 environmental impact statement under the requirements of this chapter
10 in conjunction with, or to implement, a comprehensive plan or subarea
11 plan adopted under chapter 36.70A RCW, or a fully contained community,
12 a master planned resort, a master planned development, or a phased
13 project;

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

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

18 (e) Are not essential public facilities, as defined in RCW
19 36.70A.200, unless an essential public facility is accessory to or part
20 of a residential, office, school, commercial, recreational, service, or
21 industrial development that is designated a planned action under this
22 subsection; and

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

25 (2) A county, city, or town shall define the types of development
26 included in the planned action or a specific geographical area that is
27 less extensive than the jurisdictional boundaries of the county, city,
28 or town, and may limit a planned action to a time period identified in
29 the ordinance or resolution adopted under this subsection.

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

1 (b) Except for impacts that are specifically deferred for
2 consideration at the project level, a county, city, or town is not
3 required to make a threshold determination and may not require
4 additional environmental review for a proposal that is determined to be
5 consistent with the development or redevelopment described in the
6 planned action ordinance. The determination of consistency, and the
7 adequacy of any environmental review that was specifically deferred, is
8 subject to any administrative appeal that the county, city, or town
9 provides consistent with RCW 36.70B.060.

10 **Sec. 6.** RCW 43.21C.229 and 2003 c 298 s 1 are each amended to read
11 as follows:

12 (1) In order to accommodate infill development and thereby realize
13 the goals and policies of comprehensive plans adopted according to
14 chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is
15 authorized by this section to establish categorical exemptions from the
16 requirements of this chapter. An exemption adopted under this section
17 applies even if it differs from the categorical exemptions adopted by
18 rule of the department under (~~RCW 43.21C.110(1)(a)~~) section 2 of this
19 act. An exemption may be adopted by a city or county under this
20 section if it meets the following criteria:

21 (a) It categorically exempts government action related to
22 development (~~(that is new residential or mixed use development)~~)
23 proposed to fill in an urban growth area, designated according to RCW
24 36.70A.110, where current density and intensity of use in the area is
25 lower than called for in the goals and policies of the applicable
26 comprehensive plan and the development is either new:

27 (i) Residential development;

28 (ii) Mixed-use development;

29 (iii) Commercial development under ten thousand square feet; or

30 (iv) Industrial development;

31 (b) It does not exempt government action related to development
32 that would be for a use or would exceed the density or intensity of use
33 called for in the goals and policies of the applicable comprehensive
34 plan; and

35 (c)(i) The city or county's applicable comprehensive plan was
36 previously subjected to environmental analysis through an environmental

1 impact statement under the requirements of this chapter prior to
2 adoption; or

3 (ii) The city has prepared an environmental impact statement for
4 the area where the exemption created by this section applies if the
5 underlying environmental impact statement considered the proposed use
6 or intensity of use.

7 (2) Any categorical exemption adopted by a city or county under
8 this section shall be subject to the rules of the department adopted
9 according to (~~RCW 43.21C.110(1)(a)~~) section 2 of this act that
10 provide exceptions to the use of categorical exemptions adopted by the
11 department.

12 NEW SECTION. Sec. 7. A new section is added to chapter 43.21C RCW
13 to read as follows:

14 (1) This chapter does not apply to projects designed exclusively to
15 restore natural wildlife or fishery habitats or projects that serve as
16 environmental mitigation for other projects, except for:

17 (a) Projects that are stand-alone commercial wetland mitigation
18 banks located on more than five acres; and

19 (b) Projects that are fish hatcheries.

20 (2) The lead agency permitting a project that qualifies for an
21 exemption under this section must still consult with the department of
22 archaeology and historic preservation to evaluate any potential impacts
23 to historic or archaeological sites.

24 NEW SECTION. Sec. 8. A new section is added to chapter 43.21C RCW
25 to read as follows:

26 (1) The legislature recognizes that a county, city, or town that
27 prepares a nonproject environmental review under RCW 43.21C.030(2),
28 including reviews necessary for compliance with RCW 43.21C.420, must
29 endure a substantial financial burden.

30 (2) A county, city, or town may recover reasonable expenses
31 incurred by the preparation of a nonproject environmental impact
32 statement prepared under RCW 43.21C.030(2):

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

34 (b) With funding from private sources; and

35 (c) By the assessment of a reasonable and proportionate fee upon
36 subsequent development that is consistent with the plan and development

1 regulations adopted under RCW 43.21C.030(2), as long as the development
2 makes use of and benefits from, as described in RCW 43.21C.030(2), the
3 nonproject environmental review prepared by the county, city, or town.

4 (3) In order to collect fees under this section, the county, city,
5 or town must enact an ordinance that sets forth objective standards for
6 determining how the fees to be imposed upon each development will be
7 proportionate to the impacts of each development and to the benefits
8 accruing to each development from the nonproject environmental review.

9 (4) Any assessment of fees collected under this section from
10 subsequent development may be used to reimburse funding received from
11 private sources.

12 (5)(a) Any disagreement about the reasonableness or amount of the
13 fees imposed upon a development may not be the basis for delay in
14 issuance of a project permit for that development.

15 (b) The fee assessed by the county, city, or town may be paid with
16 the written stipulation "paid under protest" and, if the city provides
17 for an administrative appeal of its decision on the project for which
18 the fees are imposed, any dispute about the amount of the fees must be
19 resolved in the same administrative appeal process.

20 **Sec. 9.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to read
21 as follows:

22 (1) Cities with a population greater than five thousand, in
23 accordance with their existing comprehensive planning and development
24 regulation authority under chapter 36.70A RCW, and in accordance with
25 this section, may adopt optional elements of their comprehensive plans
26 and optional development regulations that apply within specified
27 subareas of the cities, that are either:

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

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

34 (2) Cities located on the east side of the Cascade mountains and
35 located in a county with a population of two hundred thirty thousand or
36 less, in accordance with their existing comprehensive planning and
37 development regulation authority under chapter 36.70A RCW, and in

1 accordance with this section, may adopt optional elements of their
2 comprehensive plans and optional development regulations that apply
3 within the mixed-use or urban centers. The optional elements of their
4 comprehensive plans and optional development regulations must enhance
5 pedestrian, bicycle, transit, or other nonvehicular transportation
6 methods.

7 (3) A major transit stop is defined as:

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

10 (b) Commuter rail stops;

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

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

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

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

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

35 (c) In cities with over five hundred thousand residents, notice of
36 scoping for such a nonproject environmental impact statement and notice
37 of the community meeting required by this section must be mailed to all
38 small businesses as defined in RCW 19.85.020, and to all community

1 preservation and development authorities established under chapter
2 43.167 RCW, located within the subarea to be studied or within one
3 hundred fifty feet of the boundaries of such subarea. The process for
4 community involvement must have the goal of fair treatment and
5 meaningful involvement of all people with respect to the development
6 and implementation of the subarea planning process.

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

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

20 (f) Cities with over five hundred thousand residents shall prepare
21 a study that accompanies or is appended to the nonproject environmental
22 impact statement, but must not be part of that statement, that analyzes
23 the extent to which the proposed subarea plan may result in the
24 displacement or fragmentation of existing businesses, existing
25 residents, including people living with poverty, families with
26 children, and intergenerational households, or cultural groups within
27 the proposed subarea plan. The city shall also discuss the results of
28 the analysis at the community meeting.

29 (g) As an incentive for development authorized under this section,
30 a city shall consider establishing a transfer of development rights
31 program in consultation with the county where the city is located, that
32 conserves county-designated agricultural and forest land of long-term
33 commercial significance. If the city decides not to establish a
34 transfer of development rights program, the city must state in the
35 record the reasons for not adopting the program. The city's decision
36 not to establish a transfer of development rights program is not
37 subject to appeal. Nothing in this subsection (4)(g) may be used as a

1 basis to challenge the optional comprehensive plan or subarea plan
2 policies authorized under this section.

3 (5)(a) Until July 1, 2018, a proposed development that is
4 consistent with the optional comprehensive plan or subarea plan
5 policies and development regulations adopted under subsection (1) or
6 (2) of this section and that is environmentally reviewed under
7 subsection (4) of this section may not be challenged in administrative
8 or judicial appeals for noncompliance with this chapter as long as a
9 complete application for such a development that vests the application
10 or would later lead to vested status under city or state law is
11 submitted to the city within a time frame established by the city, but
12 not to exceed ten years from the date of issuance of the final
13 environmental impact statement.

14 (b) After July 1, 2018, the immunity from appeals under this
15 chapter of any application that vests or will vest under this
16 subsection or the ability to vest under this subsection is still valid,
17 provided that the final subarea environmental impact statement is
18 issued by July 1, 2018. (~~After July 1, 2018, a city may continue to~~
19 ~~collect reimbursement fees under subsection (6) of this section for the~~
20 ~~proportionate share of a subarea environmental impact statement issued~~
21 ~~prior to July 1, 2018.))~~

22 (~~It is recognized that a city that prepares a nonproject~~
23 ~~environmental impact statement under subsection (4) of this section~~
24 ~~must endure a substantial financial burden. A city may recover its~~
25 ~~reasonable expenses of preparation of a nonproject environmental impact~~
26 ~~statement prepared under subsection (4) of this section through access~~
27 ~~to financial assistance under RCW 36.70A.490 or funding from private~~
28 ~~sources. In addition, a city is authorized to recover a portion of its~~
29 ~~reasonable expenses of preparation of such a nonproject environmental~~
30 ~~impact statement by the assessment of reasonable and proportionate fees~~
31 ~~upon subsequent development that is consistent with the plan and~~
32 ~~development regulations adopted under subsection (5) of this section,~~
33 ~~as long as the development makes use of and benefits [from], as~~
34 ~~described in subsection (5) of this section, from the nonproject~~
35 ~~environmental impact statement prepared by the city. Any assessment~~
36 ~~fees collected from subsequent development may be used to reimburse~~
37 ~~funding received from private sources. In order to collect such fees,~~
38 ~~the city must enact an ordinance that sets forth objective standards~~

1 ~~for determining how the fees to be imposed upon each development will~~
2 ~~be proportionate to the impacts of each development and to the benefits~~
3 ~~accruing to each development from the nonproject environmental impact~~
4 ~~statement. Any disagreement about the reasonableness or amount of the~~
5 ~~fees imposed upon a development may not be the basis for delay in~~
6 ~~issuance of a project permit for that development. The fee assessed by~~
7 ~~the city may be paid with the written stipulation "paid under protest"~~
8 ~~and if the city provides for an administrative appeal of its decision~~
9 ~~on the project for which the fees are imposed, any dispute about the~~
10 ~~amount of the fees must be resolved in the same administrative appeal~~
11 ~~process.~~

12 (7)) If a proposed development is inconsistent with the optional
13 comprehensive plan or subarea plan policies and development regulations
14 adopted under subsection (1) of this section, the city shall require
15 additional environmental review in accordance with this chapter.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.21C
17 RCW to read as follows:

18 (1) The utility-related actions listed in subsection (2) of this
19 section are categorically exempt from the requirements of this chapter,
20 except for installation, construction, or alteration on lands covered
21 by water. The exemption includes installation and construction,
22 relocation when required by other governmental bodies, repair,
23 replacement, maintenance, operation, or alteration that does not change
24 the action from an exempt class.

25 (2) Except as provided in subsection (1) of this section, the
26 following are categorically exempt from the requirements of this
27 chapter:

28 (a) Installing electric facilities, lines, equipment, or
29 appurtenances, not including substations, with an associated voltage of
30 one hundred fifteen thousand volts or fewer;

31 (b) Building over existing distribution lines with transmission
32 lines of one hundred fifteen thousand volts or more; and

33 (c) Placing electric facilities, lines, equipment, or appurtenances
34 underground.

35 (3) The department of ecology may adopt additional categorical
36 exemptions for utility-related actions in accordance with RCW
37 43.21C.110.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.21C
2 RCW to read as follows:

3 (1)(a) Except as otherwise provided in this subsection (1), the
4 proposed actions contained in subsections (2) and (3) of this section
5 are categorically exempt from the requirements of this chapter if the
6 proposed action is located within a county, city, or town planning
7 under RCW 36.70A.040. If a proposed action is located in more than one
8 county, city, or town, the lower of the agencies' adopted categorical
9 exemption levels controls, regardless of which agency is the lead
10 agency.

11 (b) An ordinance or resolution may be adopted by a city, county, or
12 town to establish lower exemption levels for specific geographic areas
13 within the city, county, or town and remove the otherwise exempt
14 proposed actions identified in subsections (2) and (3) of this section
15 from being considered exempt.

16 (2) Except as provided in subsection (1)(b) of this section, the
17 following actions are categorically exempt from the requirements of
18 this chapter if the proposed action is located within an urban growth
19 area designated pursuant to RCW 36.70A.110:

20 (a) The following are nonproject actions:

21 (i) Amendments to development regulations that are required to
22 ensure consistency with an adopted comprehensive plan pursuant to RCW
23 36.70A.040, where the comprehensive plan was previously subjected to
24 environmental review pursuant to this chapter;

25 (ii) Amendments to development regulations that are required to
26 ensure consistency with a shoreline master program approved pursuant to
27 RCW 90.58.090, where the shoreline master program was previously
28 subjected to environmental review pursuant to this chapter;

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

32 (A) Increased protections for critical areas, such as enhanced
33 buffers or setbacks;

34 (B) Increased vegetation retention or decreased impervious surface
35 areas in shoreline jurisdiction; and

36 (C) Increased vegetation retention or decreased impervious surface
37 areas in critical areas;

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

4 (A) Building codes required by chapter 19.27 RCW;

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

6 (C) Electrical codes required by chapter 19.28 RCW.

7 (b) The following are project actions:

8 (i) The construction or location of single-family residential
9 developments of fifty dwelling units or fewer;

10 (ii) The construction or location of multifamily residential
11 developments of eighty dwelling units or fewer;

12 (iii) The construction of an office, school, commercial,
13 recreational, service, or storage building with thirty thousand or
14 fewer square feet of gross floor area, and with associated parking
15 facilities designed for one hundred automobiles or fewer; and

16 (iv) Any landfill or excavation of one thousand two hundred cubic
17 yards or fewer of disturbed area throughout the total lifetime of the
18 fill or excavation.

19 (3) Except as provided in subsection (1)(b) of this section, the
20 following types of construction are categorically exempt from the
21 requirements of this chapter if the proposed action is located outside
22 an urban growth area designated pursuant to RCW 36.70A.110:

23 (a) The following are nonproject actions:

24 (i) Amendments to development regulations that are required to
25 ensure consistency with an adopted comprehensive plan pursuant to RCW
26 36.70A.040, where the comprehensive plan was previously subjected to
27 environmental review pursuant to this chapter;

28 (ii) Amendments to development regulations that are required to
29 ensure consistency with a shoreline master program approved pursuant to
30 RCW 90.58.090, where the shoreline master program was previously
31 subjected to environmental review pursuant to this chapter;

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

35 (A) Increased protections for critical areas such as enhanced
36 buffers or setbacks;

37 (B) Increased vegetation retention or decreased impervious surface
38 areas in shoreline jurisdiction; and

1 (C) Increased vegetation retention or decreased impervious surface
2 areas in critical areas;

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

6 (A) Building codes required by chapter 19.27 RCW;

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

8 (C) Electrical codes required by chapter 19.28 RCW.

9 (b) The following are project actions:

10 (i) The construction or location of single-family residential
11 developments of twenty-five dwelling units or fewer;

12 (ii) Excluding feed lots, the construction of a barn, loafing shed,
13 farm equipment storage building, produce storage or packing structure,
14 or similar agricultural structure, covering up to fifty thousand square
15 feet, and to be used only by the property owner or the property owner's
16 agent in the conduct of farming the property;

17 (iii) The construction of an office, school, commercial,
18 recreational, service, or storage building with fifteen thousand or
19 fewer square feet of gross floor area, and with associated parking
20 facilities designed for fifty automobiles or fewer; and

21 (iv) Any landfill or excavation of one thousand cubic yards or
22 fewer of disturbed area throughout the total lifetime of the fill or
23 excavation.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.21C
25 RCW to read as follows:

26 (1) The lead agency for an environmental review under this chapter
27 utilizing an environmental checklist developed by the department of
28 ecology pursuant to RCW 43.21C.110 may satisfy the requirements of the
29 checklist by identifying instances where questions on the checklist are
30 adequately covered by a locally adopted ordinance, development
31 regulation, land use plan, or other legal authority.

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

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

3 NEW SECTION. **Sec. 13.** (1) The department of ecology must, by
4 December 31, 2012, amend WAC 197-11-960, as it existed on the effective
5 date of this section, to allow for the flexibility in the environmental
6 checklist process provided in section 11 of this act.

7 (2) This section expires July 31, 2013.

8 **Sec. 14.** RCW 36.70A.490 and 1995 c 347 s 115 are each amended to
9 read as follows:

10 The growth management planning and environmental review fund is
11 hereby established in the state treasury. Moneys may be placed in the
12 fund from the proceeds of bond sales, tax revenues, budget transfers,
13 federal appropriations, gifts, or any other lawful source. Moneys in
14 the fund may be spent only after appropriation. Moneys in the fund
15 shall be used to make grants or loans to local governments for the
16 purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500. Any
17 payment of either principal or interest, or both, derived from loans
18 made from this fund must be deposited into the fund.

19 **Sec. 15.** RCW 36.70A.500 and 1997 c 429 s 28 are each amended to
20 read as follows:

21 (1) The department of (~~community, trade, and economic~~
22 ~~development~~) commerce shall provide management services for the growth
23 management planning and environmental review fund created by RCW
24 36.70A.490. The department shall establish procedures for fund
25 management. The department shall encourage participation in the grant
26 or loan program by other public agencies. The department shall develop
27 the grant or loan criteria, monitor the grant or loan program, and
28 select grant or loan recipients in consultation with state agencies
29 participating in the grant or loan program through the provision of
30 grant or loan funds or technical assistance.

31 (2) A grant or loan may be awarded to a county or city that is
32 required to or has chosen to plan under RCW 36.70A.040 and that is
33 qualified pursuant to this section. The grant or loan shall be
34 provided to assist a county or city in paying for the cost of preparing
35 an environmental analysis under chapter 43.21C RCW, that is integrated

1 with a comprehensive plan, subarea plan, plan element, countywide
2 planning policy, development regulation, monitoring program, or other
3 planning activity adopted under or implementing this chapter that:

4 (a) Improves the process for project permit review while
5 maintaining environmental quality; or

6 (b) Encourages use of plans and information developed for purposes
7 of complying with this chapter to satisfy requirements of other state
8 programs.

9 (3) In order to qualify for a grant or loan, a county or city
10 shall:

11 (a) Demonstrate that it will prepare an environmental analysis
12 pursuant to chapter 43.21C RCW and subsection (2) of this section that
13 is integrated with a comprehensive plan, subarea plan, plan element,
14 countywide planning policy, development regulations, monitoring
15 program, or other planning activity adopted under or implementing this
16 chapter;

17 (b) Address environmental impacts and consequences, alternatives,
18 and mitigation measures in sufficient detail to allow the analysis to
19 be adopted in whole or in part by applicants for development permits
20 within the geographic area analyzed in the plan;

21 (c) Demonstrate that procedures for review of development permit
22 applications will be based on the integrated plans and environmental
23 analysis;

24 (d) Include mechanisms to monitor the consequences of growth as it
25 occurs in the plan area and to use the resulting data to update the
26 plan, policy, or implementing mechanisms and associated environmental
27 analysis;

28 (e) Demonstrate substantial progress towards compliance with the
29 requirements of this chapter. A county or city that is more than six
30 months out of compliance with a requirement of this chapter is deemed
31 not to be making substantial progress towards compliance; and

32 (f) Provide local funding, which may include financial
33 participation by the private sector.

34 (4) In awarding grants or loans, the department shall give
35 preference to proposals that include one or more of the following
36 elements:

37 (a) Financial participation by the private sector, or a
38 public/private partnering approach;

1 (b) Identification and monitoring of system capacities for elements
2 of the built environment, and to the extent appropriate, of the natural
3 environment;

4 (c) Coordination with state, federal, and tribal governments in
5 project review;

6 (d) Furtherance of important state objectives related to economic
7 development, protection of areas of statewide significance, and siting
8 of essential public facilities;

9 (e) Programs to improve the efficiency and effectiveness of the
10 permitting process by greater reliance on integrated plans and
11 prospective environmental analysis;

12 (f) Programs for effective citizen and neighborhood involvement
13 that contribute to greater likelihood that planning decisions can be
14 implemented with community support; (~~and~~)

15 (g) Programs to identify environmental impacts and establish
16 mitigation measures that provide effective means to satisfy concurrency
17 requirements and establish project consistency with the plans; or

18 (h) Environmental review that addresses the impacts of increased
19 density or intensity of comprehensive plans, subarea plans, or
20 receiving areas designated by a city or town under the regional
21 transfer of development rights program in chapter 43.362 RCW.

22 (5) If the local funding includes funding provided by other state
23 functional planning programs, including open space planning and
24 watershed or basin planning, the functional plan shall be integrated
25 into and be consistent with the comprehensive plan.

26 (6) State agencies shall work with grant or loan recipients to
27 facilitate state and local project review processes that will implement
28 the projects receiving grants or loans under this section.

29 NEW SECTION. Sec. 16. A new section is added to chapter 82.02 RCW
30 to read as follows:

31 (1) The legislature finds that:

32 (a) Detailed environmental analysis integrated with comprehensive
33 plans, subarea plans, and development regulations will facilitate
34 planning for and managing growth, allow greater protection of the
35 environment, and benefit both the general public and private property
36 owners;

1 (b) Compact development in urban growth areas, or transfer of
2 development rights programs, will assist in the conservation of rural,
3 agricultural, and forest land by redirecting growth from this land to
4 areas designated for compact development or receiving areas in cities
5 and towns where growth should occur;

6 (c) Cities and towns planning for increased growth in receiving
7 areas under chapter 43.362 RCW must comply with chapter 43.21C RCW;

8 (d) Planning for compact or increased growth in urban growth areas,
9 or receiving areas under chapter 43.362 RCW in compliance with chapter
10 43.21C RCW, presents a financial burden on cities and towns;

11 (e) Planning for compact or increased growth in urban growth areas,
12 or receiving areas under chapter 43.362 RCW in compliance with chapter
13 43.21C RCW, should be encouraged to ensure that the quality of life in
14 receiving neighborhoods and the protection of environmental values over
15 time are maintained by providing financial assistance through the
16 growth management planning and environmental review fund created in RCW
17 36.70A.490;

18 (f) Access to financial assistance through the growth management
19 planning and environmental review fund created in RCW 36.70A.490 may be
20 increased by allowing the fund to become a revolving loan program
21 rather than only a grant program; and

22 (g) Counties, cities, and towns will have the ability to repay
23 loans from the growth management planning and environmental review fund
24 created in RCW 36.70A.490, or recoup their own costs associated with
25 environmental review conducted at a comprehensive plan or subarea plan
26 level, with fees they collect from developers who will benefit from the
27 environmental review that the city or county has already conducted
28 under chapter 43.21C RCW on a comprehensive plan or subarea plan, or in
29 conjunction with the designation of a receiving area under chapter
30 43.362 RCW, and that addresses the impacts of compact development or
31 projects using transferable development rights.

32 (2) Counties, cities, and towns that conduct detailed environmental
33 review under chapter 43.21C RCW, integrated with a comprehensive plan
34 or subarea plan within urban growth areas, are authorized to impose
35 environmental fees on development activity as part of the financing for
36 environmental review conducted under chapter 43.21C RCW on a
37 comprehensive plan or subarea plan.

38 (3) The environmental fees:

1 (a) May only be imposed for environmental review costs that have
2 been identified as reasonably related to the new development;

3 (b) May not exceed the proportionate share of the costs of
4 environmental review conducted for a comprehensive plan or subarea
5 plan; and

6 (c) May, if applicable, be used to repay a loan from the growth
7 management planning and environmental review fund created in RCW
8 36.70A.490.

9 **Sec. 17.** RCW 82.02.020 and 2010 c 153 s 3 are each amended to read
10 as follows:

11 Except only as expressly provided in chapters 67.28, 81.104, and
12 82.14 RCW, the state preempts the field of imposing retail sales and
13 use taxes and taxes upon parimutuel wagering authorized pursuant to RCW
14 67.16.060, conveyances, and cigarettes, and no county, town, or other
15 municipal subdivision shall have the right to impose taxes of that
16 nature. Except as provided in RCW 64.34.440, section 16 of this act,
17 and RCW 82.02.050 through 82.02.090, no county, city, town, or other
18 municipal corporation shall impose any tax, fee, or charge, either
19 direct or indirect, on the construction or reconstruction of
20 residential buildings, commercial buildings, industrial buildings, or
21 on any other building or building space or appurtenance thereto, or on
22 the development, subdivision, classification, or reclassification of
23 land. However, this section does not preclude dedications of land or
24 easements within the proposed development or plat which the county,
25 city, town, or other municipal corporation can demonstrate are
26 reasonably necessary as a direct result of the proposed development or
27 plat to which the dedication of land or easement is to apply.

28 This section does not prohibit voluntary agreements with counties,
29 cities, towns, or other municipal corporations that allow a payment in
30 lieu of a dedication of land or to mitigate a direct impact that has
31 been identified as a consequence of a proposed development,
32 subdivision, or plat. A local government shall not use such voluntary
33 agreements for local off-site transportation improvements within the
34 geographic boundaries of the area or areas covered by an adopted
35 transportation program authorized by chapter 39.92 RCW. Any such
36 voluntary agreement is subject to the following provisions:

1 (1) The payment shall be held in a reserve account and may only be
2 expended to fund a capital improvement agreed upon by the parties to
3 mitigate the identified, direct impact;

4 (2) The payment shall be expended in all cases within five years of
5 collection; and

6 (3) Any payment not so expended shall be refunded with interest to
7 be calculated from the original date the deposit was received by the
8 county and at the same rate applied to tax refunds pursuant to RCW
9 84.69.100; however, if the payment is not expended within five years
10 due to delay attributable to the developer, the payment shall be
11 refunded without interest.

12 No county, city, town, or other municipal corporation shall require
13 any payment as part of such a voluntary agreement which the county,
14 city, town, or other municipal corporation cannot establish is
15 reasonably necessary as a direct result of the proposed development or
16 plat.

17 Nothing in this section prohibits cities, towns, counties, or other
18 municipal corporations from collecting reasonable fees from an
19 applicant for a permit or other governmental approval to cover the cost
20 to the city, town, county, or other municipal corporation of processing
21 applications, inspecting and reviewing plans, or preparing detailed
22 statements required by chapter 43.21C RCW, including reasonable fees
23 that are consistent with ((RCW 43.21C.420(6))) section 8 of this act.

24 This section does not limit the existing authority of any county,
25 city, town, or other municipal corporation to impose special
26 assessments on property specifically benefited thereby in the manner
27 prescribed by law.

28 Nothing in this section prohibits counties, cities, or towns from
29 imposing or permits counties, cities, or towns to impose water, sewer,
30 natural gas, drainage utility, and drainage system charges. However,
31 no such charge shall exceed the proportionate share of such utility or
32 system's capital costs which the county, city, or town can demonstrate
33 are attributable to the property being charged. Furthermore, these
34 provisions may not be interpreted to expand or contract any existing
35 authority of counties, cities, or towns to impose such charges.

36 Nothing in this section prohibits a transportation benefit district
37 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits

1 the legislative authority of a county, city, or town from approving the
2 imposition of such fees within a transportation benefit district.

3 Nothing in this section prohibits counties, cities, or towns from
4 imposing transportation impact fees authorized pursuant to chapter
5 39.92 RCW.

6 Nothing in this section prohibits counties, cities, or towns from
7 requiring property owners to provide relocation assistance to tenants
8 under RCW 59.18.440 and 59.18.450.

9 Nothing in this section limits the authority of counties, cities,
10 or towns to implement programs consistent with RCW 36.70A.540, nor to
11 enforce agreements made pursuant to such programs.

12 This section does not apply to special purpose districts formed and
13 acting pursuant to Title 54, 57, or 87 RCW, nor is the authority
14 conferred by these titles affected.

15 **Sec. 18.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to
16 read as follows:

17 Except as otherwise provided in section 1 of this act, it shall be
18 the duty and function of the department of ecology:

19 (1) To adopt and amend (~~thereafter~~) rules of interpretation and
20 implementation of this chapter, subject to the requirements of chapter
21 34.05 RCW, for the purpose of providing uniform rules and guidelines to
22 all branches of government including state agencies, political
23 subdivisions, public and municipal corporations, and counties. The
24 proposed rules shall be subject to full public hearings requirements
25 associated with rule (~~promulgation~~) adoption. Suggestions for
26 modifications of the proposed rules shall be considered on their
27 merits, and the department shall have the authority and responsibility
28 for full and appropriate independent (~~promulgation and~~) adoption of
29 rules, assuring consistency with this chapter as amended and with the
30 preservation of protections afforded by this chapter. The rule-making
31 powers authorized in this section shall include, but shall not be
32 limited to, the following phases of interpretation and implementation
33 of this chapter:

34 (~~a) (Categories of governmental actions which are not to be~~
35 ~~considered as potential major actions significantly affecting the~~
36 ~~quality of the environment, including categories pertaining to~~
37 ~~applications for water right permits pursuant to chapters 90.03 and~~

1 90.44 RCW. ~~The types of actions included as categorical exemptions in~~
2 ~~the rules shall be limited to those types which are not major actions~~
3 ~~significantly affecting the quality of the environment. The rules~~
4 ~~shall provide for certain circumstances where actions which potentially~~
5 ~~are categorically exempt require environmental review. An action that~~
6 ~~is categorically exempt under the rules adopted by the department may~~
7 ~~not be conditioned or denied under this chapter.~~

8 (b)) Rules for criteria and procedures applicable to the
9 determination of when an act of a branch of government is a major
10 action significantly affecting the quality of the environment for which
11 a detailed statement is required to be prepared pursuant to RCW
12 43.21C.030.

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

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

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

26 ((f)) (e) Definition of terms relevant to the implementation of
27 this chapter including the establishment of a list of elements of the
28 environment. Analysis of environmental considerations under RCW
29 43.21C.030(2) may be required only for those subjects listed as
30 elements of the environment (or portions thereof). The list of
31 elements of the environment shall consist of the "natural" and "built"
32 environment. The elements of the built environment shall consist of
33 public services and utilities (such as water, sewer, schools, fire and
34 police protection), transportation, environmental health (such as
35 explosive materials and toxic waste), and land and shoreline use
36 (including housing, and a description of the relationships with land
37 use and shoreline plans and designations, including population).

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

4 ~~((h))~~ (g) Methods to assure adequate public awareness of the
5 preparation and issuance of detailed statements required by RCW
6 43.21C.030(2)(c).

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

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

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

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

20 ~~((m))~~ (l) Rules and procedures that provide for the integration
21 of environmental review with project review as provided in RCW
22 43.21C.240. The rules and procedures shall be jointly developed with
23 the department of ~~((community, trade, and economic development))~~
24 commerce and shall be applicable to the preparation of environmental
25 documents for actions in counties, cities, and towns planning under RCW
26 36.70A.040. The rules and procedures shall also include procedures and
27 criteria to analyze planned actions under ~~((RCW 43.21C.031(2))~~ section
28 5 of this act and revisions to the rules adopted under this section to
29 ensure that they are compatible with the requirements and
30 authorizations of chapter 347, Laws of 1995, as amended by chapter 429,
31 Laws of 1997. Ordinances or procedures adopted by a county, city, or
32 town to implement the provisions of chapter 347, Laws of 1995 prior to
33 the effective date of rules adopted under this subsection (1)~~((m))~~
34 (l) shall continue to be effective until the adoption of any new or
35 revised ordinances or procedures that may be required. If any
36 revisions are required as a result of rules adopted under this
37 subsection (1)~~((m))~~ (l), those revisions shall be made within the
38 time limits specified in RCW 43.21C.120.

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

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

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

13 (3) Rules adopted pursuant to this section shall be subject to the
14 review procedures of chapter 34.05 RCW.

15 **Sec. 19.** RCW 43.21C.095 and 1983 c 117 s 5 are each amended to
16 read as follows:

17 The rules (~~promulgated~~) adopted under RCW 43.21C.110 and section
18 1 of this act shall be accorded substantial deference in the
19 interpretation of this chapter.

20 NEW SECTION. **Sec. 20.** A new section is added to chapter 36.70B
21 RCW to read as follows:

22 (1) The legislature recognizes the value of integrating the
23 environmental notice and review process under chapter 43.21C RCW with
24 development project notice and review under this chapter, and intends
25 this section to improve the local permit review process and facilitate
26 complete and well-informed decision making.

27 (2) If an open record predecision hearing is required for the
28 requested project permits, notice must be provided at least fifteen
29 days prior to the open record hearing.

30 (3) The notice of application must include the following elements
31 in whatever sequence or format the local government deems appropriate:

32 (a) The date of application and the date of the notice;

33 (b) If the application is complete, the completeness date;

34 (c) A description of the proposed project action and a list of the
35 project permits and reviews included in the application and, if

1 applicable, a list of any studies or other information submitted with
2 the application;

3 (d) The identification of other permits required but not included
4 in the application, to the extent known by the local government;

5 (e) The location where the application and related information can
6 be reviewed;

7 (f) A statement of the opportunity for public comment including:

8 (i) Identification of the comment period, which shall be at least
9 fourteen but not more than thirty days following the date of notice;
10 and

11 (ii) Statements of the right of any person to comment on the
12 application, receive notice of and participate in any hearings, request
13 a copy of the decision once made, and any appeal rights;

14 (g) If a meeting or hearing was scheduled at the time of notice of
15 the application, the date, time, place, and type of meeting or hearing;

16 (h) If a preliminary determination has been made at the time of
17 notice, a statement of:

18 (i) Those development regulations that will be used for project
19 mitigation;

20 (ii) Regulations of other agencies that will be relied upon for
21 project mitigation; and

22 (iii) A description of impacts that may be addressed under the
23 authority of chapter 43.21C RCW; and

24 (i) Any other information deemed appropriate by the local
25 government.

26 (4) The provisions of this section do not preclude a local
27 government from requesting additional information from the applicant as
28 a result of project review.

29 (5) A local government may accept public comments at any time prior
30 to the closing of the record of an open record predecision hearing, if
31 any, or, if no open record predecision hearing is provided, prior to
32 the decision on the project permit.

33 (6) No local government may make a final decision during the public
34 comment period.

35 (7) A local government shall provide notice to the public and to
36 agencies with jurisdiction. A local government may use its existing
37 notice procedures and may provide different types of notice for
38 different categories of project permits or types of project actions.

1 At minimum, a local government shall use the following methods to
2 provide a summary description of the proposal and identify means to
3 access the full notice and complete application for review:

4 (a) Posting the affected property for site-specific proposals; and

5 (b) Publishing a summary notice in the newspaper of general
6 circulation in the general area where the proposal is located or in a
7 local land use bulletin published by the local government.

8 (8)(a) A local government shall also provide notice to the
9 following parties:

10 (i) Affected agencies;

11 (ii) Affected tribes;

12 (iii) Public or private groups with a known interest in a
13 certain proposal or in the type of proposal being considered; and

14 (iv) Neighboring property owners when required by local ordinance.

15 (b) Notice to the parties in (a) of this subsection must be
16 provided by one of the following methods:

17 (i) Electronic mail notice;

18 (ii) Mailed paper notice, when electronic addresses are not
19 available; or

20 (iii) Other methods established by local ordinances.

21 NEW SECTION. **Sec. 21.** A new section is added to chapter 36.70B
22 RCW to read as follows:

23 A local government shall integrate the permit procedures in section
24 20 of this act with environmental review under chapter 43.21C RCW as
25 follows:

26 (1) A single integrated comment period must be used to obtain
27 comments on the proposal and the expected threshold determination for
28 the proposal.

29 (2) Except in cases where a determination of significance is
30 issued, the local government may not issue its threshold determination
31 until the expiration of the public comment period.

32 (3) If a local government has made a determination of significance,
33 the scoping notice may be issued prior to the notice of application.

34 (4) If an open record predecision hearing is required, the local
35 government shall issue its threshold determination and any required
36 recommendation at least fifteen days prior to the open record

1 predecision hearing. A staff report must identify all mitigation
2 required or proposed under development regulations, and mitigation
3 required or proposed under the agency's authority under RCW 43.21C.060.

4 (5) If an open record predecision hearing is not required, the
5 local government shall issue the threshold determination in conjunction
6 with any related land use decisions.

7 (6) If no discretionary land use decisions are required, such as
8 when decisions such as a building permit are the trigger for review
9 under chapter 43.21C RCW, the local government may issue a use
10 approval, which is considered an underlying action for purposes of any
11 allowed appeal of the threshold determination.

12 (7) In cases where the local government is exercising the
13 substantive authority of chapter 43.21C RCW to impose conditions or
14 mitigate environmental impacts of the proposed project, those
15 conditions must be explicitly identified in writing and made available
16 with the notice of decision.

17 (8) The responsible official may determine that an additional
18 fourteen day comment period is necessary when information received
19 during the comment period in subsection (1) of this section has
20 resulted in substantial changes to the project or the conditions of
21 approval.

22 NEW SECTION. **Sec. 22.** A new section is added to chapter 36.70B
23 RCW to read as follows:

24 (1) A local government may decide whether to provide administrative
25 appeals for decisions made pursuant to its development and
26 environmental review codes.

27 (2) When an administrative appeal is provided, unless otherwise set
28 forth or limited in local ordinance, the applicant for a project permit
29 and any party who provided comment on a project permit application
30 prior to the date a decision is issued has standing to file an
31 administrative appeal.

32 (3) Appeal of the project decision or use approval, and of any
33 environmental determination issued at the same time as the project
34 decision or use approval, must be commenced within the time periods as
35 set forth in subsection (5) of this section.

36 (4)(a) Where an open record predecision hearing is provided prior
37 to the decision on a project permit, and where the threshold

1 determination has been made as required in section 21 of this act, the
2 open record predecision hearing officer shall make a final procedural
3 decision on any appeal of the threshold determination.

4 (b) If an appeal of the project decision from the hearing officer
5 is allowed, a single closed record appeal must be provided before one
6 decision-making body or officer.

7 (c) The appropriate use or lack of use of substantive authority
8 under chapter 43.21C RCW may be considered during the closed record
9 appeal.

10 (5) An administrative appeal of the project decision and of any
11 environmental determination issued at the same time as the project
12 decision must be filed within fourteen days after the notice of the
13 decision or after other notice that the decision has been made and is
14 appealable, except when a thirty day notice is required pursuant to
15 chapter 90.58 RCW.

16 (6) If the responsible official has provided for an additional
17 fourteen day comment period under section 21(8) of this act, an
18 administrative appeal must be filed within fourteen days after the
19 conclusion of that comment period.

20 (7) If the applicant is the only party with standing to file an
21 administrative appeal, the applicant may waive the right of appeal in
22 writing. The appeal period must be curtailed and the project review
23 process must be concluded.

24 NEW SECTION. **Sec. 23.** A new section is added to chapter 36.70B
25 RCW to read as follows:

26 The provisions of this chapter are applicable to all counties and
27 cities.

28 NEW SECTION. **Sec. 24.** A new section is added to chapter 36.70 RCW
29 to read as follows:

30 The integrated environmental notice and review processes for
31 project review under chapter 36.70B RCW are applicable to all counties
32 and cities.

33 NEW SECTION. **Sec. 25.** RCW 36.70B.110 (Notice of application--
34 Required elements--Integration with other review procedures--

1 Administrative appeals) and 1997 c 429 s 48, 1997 c 396 s 1, & 1995 c
2 347 s 415 are each repealed.

--- END ---