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HOUSE BILL 1891

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Chase, Hudgins, and Nelson

Read first time 02/02/09. Referred to Committee on Environmental Health.

1            AN ACT Relating to incorporating human health analysis into  
2 environmental review; amending RCW 43.21C.030, 43.21C.031, 43.21C.034,  
3 43.21C.060, 43.21C.075, 43.21C.110, and 43.21C.240; and creating a new  
4 section.

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

6            NEW SECTION.    **Sec. 1.**    The legislature finds that the state  
7 environmental policy act, chapter 43.21C RCW, requires a thorough  
8 exploration and a careful analysis of a wide range of alternatives  
9 based on the best available science. Further, the legislature finds  
10 that any gaps in scientific data uncovered by the examination of  
11 alternatives will provide a guidepost for future research, but will not  
12 prevent protective action being taken by public agencies. The  
13 legislature also finds that as new scientific data become available,  
14 public agencies will review decisions and make adjustments when  
15 warranted. The legislature reaffirms that each person has a  
16 fundamental and inalienable right to a healthful environment and that  
17 each person has a responsibility to contribute to the preservation and  
18 enhancement of the environment. Therefore, the legislature declares  
19 that where threats of serious or irreversible damage to people or

1 nature exist, lack of full scientific certainty about cause and effect  
2 may not be viewed as sufficient reason for the state to postpone  
3 measures to prevent the degradation of the environment or protect the  
4 health of its residents.

5 **Sec. 2.** RCW 43.21C.030 and 1971 ex.s. c 109 s 3 are each amended  
6 to read as follows:

7 (1) The legislature authorizes and directs that, to the fullest  
8 extent possible: ~~((+1))~~ (a) The policies, ~~((regulations))~~ rules, and  
9 laws of the state of Washington shall be interpreted and administered  
10 in accordance with the policies set forth in this chapter, and ~~((+2))~~  
11 (b) all branches of government of this state, including state agencies,  
12 municipal and public corporations, and counties shall:

13 ~~((+a))~~ (i) Utilize a systematic, interdisciplinary approach which  
14 will ~~((insure))~~ ensure the integrated use of the natural and social  
15 sciences and the environmental design arts in planning and in decision  
16 making which may have an impact on man's environment;

17 ~~((+b))~~ (ii) Identify and develop methods and procedures, in  
18 consultation with the department of ecology and the ecological  
19 commission, which will ~~((insure))~~ ensure that presently unquantified  
20 environmental and human health amenities and values will be given  
21 appropriate consideration in decision making along with economic and  
22 technical considerations;

23 ~~((+c))~~ (iii) Include in every recommendation or report on  
24 proposals for legislation and other major actions significantly  
25 affecting the quality of the environment and human health, a detailed  
26 statement by the responsible official on:

27 ~~((+i))~~ (A) The environmental and human health impact of the  
28 proposed action;

29 ~~((+ii))~~ (B) Any adverse environmental and human health effects  
30 which cannot be avoided should the proposal be implemented;

31 ~~((+iii))~~ (C) Alternatives to the proposed action;

32 ~~((+iv))~~ (D) The relationship between local short-term uses of  
33 man's environment and the maintenance and enhancement of long-term  
34 productivity; and

35 ~~((+v))~~ (E) Any irreversible and irretrievable commitments of  
36 resources which would be involved in the proposed action should it be  
37 implemented;

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

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

15       ~~((f))~~ (vi) Recognize the worldwide and long-range character of  
16 environmental and human health problems and, where consistent with  
17 state policy, lend appropriate support to initiatives, resolutions, and  
18 programs designed to maximize international cooperation in anticipating  
19 and preventing a decline in the quality of mankind's world environment;

20       ~~((g))~~ (vii) Make available to the federal government, other  
21 states, provinces of Canada, municipalities, institutions, and  
22 individuals, advice and information useful in restoring, maintaining,  
23 and enhancing the quality of the environment and human health;

24       ~~((h))~~ (viii) Initiate and utilize ecological information in the  
25 planning and development of natural resource-oriented projects.

26       (2) For purposes of this chapter, "human health" includes the  
27 consideration of physical, mental, economic, and social well-being and  
28 not merely the absence of disease or infirmity.

29       **Sec. 3.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to  
30 read as follows:

31       (1) An environmental impact statement (the detailed statement  
32 required by RCW 43.21C.030~~((2)(e))~~ (1)(b)(iii)) shall be prepared on  
33 proposals for legislation and other major actions having a probable  
34 significant, adverse environmental and human health impact. The  
35 environmental impact statement may be combined with the recommendation  
36 or report on the proposal or issued as a separate document. The  
37 substantive decisions or recommendations shall be clearly identifiable

1 in the combined document. Actions categorically exempt under RCW  
2 43.21C.110(1)(a) do not require environmental review or the preparation  
3 of an environmental impact statement under this chapter. In a county,  
4 city, or town planning under RCW 36.70A.040, a planned action, as  
5 provided for in subsection (2) of this section, does not require a  
6 threshold determination or the preparation of an environmental impact  
7 statement under this chapter, but is subject to environmental review  
8 and mitigation as provided in this chapter.

9 An environmental impact statement is required to analyze only those  
10 probable adverse environmental and human health impacts which are  
11 significant. Beneficial environmental and human health impacts may be  
12 discussed. The responsible official shall consult with agencies and  
13 the public to identify such impacts and limit the scope of an  
14 environmental impact statement. The subjects listed in RCW  
15 43.21C.030(~~((2)(e))~~) (1)(b)(iii) need not be treated as separate  
16 sections of an environmental impact statement. Discussions of  
17 significant short-term and long-term environmental and human health  
18 impacts, significant irrevocable commitments of natural resources,  
19 significant alternatives including mitigation measures, and significant  
20 environmental and human health impacts which cannot be mitigated should  
21 be consolidated or included, as applicable, in those sections of an  
22 environmental impact statement where the responsible official decides  
23 they logically belong.

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

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

28 (ii) Have had the significant impacts adequately addressed in an  
29 environmental impact statement prepared in conjunction with (A) a  
30 comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or  
31 (B) a fully contained community, a master planned resort, a master  
32 planned development, or a phased project;

33 (iii) Are subsequent or implementing projects for the proposals  
34 listed in (a)(ii) of this subsection;

35 (iv) Are located within an urban growth area, as defined in RCW  
36 36.70A.030;

37 (v) Are not essential public facilities, as defined in RCW  
38 36.70A.200; and

1 (vi) Are consistent with a comprehensive plan adopted under chapter  
2 36.70A RCW.

3 (b) A county, city, or town shall limit planned actions to certain  
4 types of development or to specific geographical areas that are less  
5 extensive than the jurisdictional boundaries of the county, city, or  
6 town and may limit a planned action to a time period identified in the  
7 environmental impact statement or the ordinance or resolution adopted  
8 under this subsection.

9 **Sec. 4.** RCW 43.21C.034 and 1993 c 23 s 1 are each amended to read  
10 as follows:

11 Lead agencies are authorized to use in whole or in part existing  
12 environmental documents for new project or nonproject actions, if the  
13 documents adequately address environmental and human health  
14 considerations set forth in RCW 43.21C.030. The prior proposal or  
15 action and the new proposal or action need not be identical, but must  
16 have similar elements that provide a basis for comparing their  
17 environmental and human health consequences such as timing, types of  
18 impacts, alternatives, or geography. The lead agency shall  
19 independently review the content of the existing documents and  
20 determine that the information and analysis to be used is relevant and  
21 adequate. If necessary, the lead agency may require additional  
22 documentation to ensure that all environmental and human health impacts  
23 have been adequately addressed.

24 **Sec. 5.** RCW 43.21C.060 and 1983 c 117 s 3 are each amended to read  
25 as follows:

26 The policies and goals set forth in this chapter are supplementary  
27 to those set forth in existing authorizations of all branches of  
28 government of this state, including state agencies, municipal and  
29 public corporations, and counties. Any governmental action may be  
30 conditioned or denied pursuant to this chapter: PROVIDED, That such  
31 conditions or denials shall be based upon policies identified by the  
32 appropriate governmental authority and incorporated into regulations,  
33 plans, or codes which are formally designated by the agency (or  
34 appropriate legislative body, in the case of local government) as  
35 possible bases for the exercise of authority pursuant to this chapter.  
36 Such designation shall occur at the time specified by RCW 43.21C.120.

1 Such action may be conditioned only to mitigate specific adverse  
2 environmental and human health impacts which are identified in the  
3 environmental documents prepared under this chapter. These conditions  
4 shall be stated in writing by the decisionmaker. Mitigation measures  
5 shall be reasonable and capable of being accomplished. In order to  
6 deny a proposal under this chapter, an agency must find that: (1) The  
7 proposal would result in significant adverse impacts identified in a  
8 final or supplemental environmental impact statement prepared under  
9 this chapter; and (2) reasonable mitigation measures are insufficient  
10 to mitigate the identified impact. Except for permits and variances  
11 issued pursuant to chapter 90.58 RCW, when such a governmental action,  
12 not requiring a legislative decision, is conditioned or denied by a  
13 nonelected official of a local governmental agency, the decision shall  
14 be appealable to the legislative authority of the acting local  
15 governmental agency unless that legislative authority formally  
16 eliminates such appeals. Such appeals shall be in accordance with  
17 procedures established for such appeals by the legislative authority of  
18 the acting local governmental agency.

19 **Sec. 6.** RCW 43.21C.075 and 1997 c 429 s 49 are each amended to  
20 read as follows:

21 (1) Because a major purpose of this chapter is to combine  
22 environmental and human health considerations with public decisions,  
23 any appeal brought under this chapter shall be linked to a specific  
24 governmental action. The state environmental policy act provides a  
25 basis for challenging whether governmental action is in compliance with  
26 the substantive and procedural provisions of this chapter. The state  
27 environmental policy act is not intended to create a cause of action  
28 unrelated to a specific governmental action.

29 (2) Unless otherwise provided by this section:

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

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

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

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

5 (b) Shall consolidate an appeal of procedural issues and of  
6 substantive determinations made under this chapter (such as a decision  
7 to require particular mitigation measures or to deny a proposal) with  
8 a hearing or appeal on the underlying governmental action by providing  
9 for a single simultaneous hearing before one hearing officer or body to  
10 consider the agency decision or recommendation on a proposal and any  
11 environmental determinations made under this chapter, with the  
12 exception of:

13 (i) An appeal of a determination of significance;

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

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

21 (iv) An appeal to the local legislative authority under RCW  
22 43.21C.060 or other applicable state statutes;

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

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

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

37 (5) Some statutes and ordinances contain time periods for  
38 challenging governmental actions which are subject to review under this

1 chapter, such as various local land use approvals (the "underlying  
2 governmental action"). RCW 43.21C.080 establishes an optional "notice  
3 of action" procedure which, if used, imposes a time period for  
4 appealing decisions under this chapter. This subsection does not  
5 modify any such time periods. In this subsection, the term "appeal"  
6 refers to a judicial appeal only.

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

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

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

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

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

34 (7) Jurisdiction over the review of determinations under this  
35 chapter in an appeal before an agency or superior court shall upon  
36 consent of the parties be transferred in whole or part to the  
37 shorelines hearings board. The shorelines hearings board shall hear  
38 the matter and sign the final order expeditiously. The superior court



1 shall certify the final order of the shorelines hearings board and the  
2 certified final order may only be appealed to an appellate court. In  
3 the case of an appeal under this chapter regarding a project or other  
4 matter that is also the subject of an appeal to the shorelines hearings  
5 board under chapter 90.58 RCW, the shorelines hearings board shall have  
6 sole jurisdiction over both the appeal under this section and the  
7 appeal under chapter 90.58 RCW, shall consider them together, and shall  
8 issue a final order within one hundred eighty days as provided in RCW  
9 90.58.180.

10 (8) For purposes of this section and RCW 43.21C.080, the words  
11 "action", "decision", and "determination" mean substantive agency  
12 action including any accompanying procedural determinations under this  
13 chapter (except where the word "action" means "appeal" in RCW  
14 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080  
15 does not mean a procedural determination by itself made under this  
16 chapter. The word "determination" includes any environmental and human  
17 health document required by this chapter and state or local  
18 implementing rules. The word "agency" refers to any state or local  
19 unit of government. Except as provided in subsection (5) of this  
20 section, the word "appeal" refers to administrative, legislative, or  
21 judicial appeals.

22 (9) The court in its discretion may award reasonable attorneys'  
23 fees of up to one thousand dollars in the aggregate to the prevailing  
24 party, including a governmental agency, on issues arising out of this  
25 chapter if the court makes specific findings that the legal position of  
26 a party is frivolous and without reasonable basis.

27 **Sec. 7.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to  
28 read as follows:

29 It shall be the duty and function of the department of ecology:

30 (1) To adopt and amend thereafter rules of interpretation and  
31 implementation of this chapter, subject to the requirements of chapter  
32 34.05 RCW, for the purpose of providing uniform rules and guidelines to  
33 all branches of government including state agencies, political  
34 subdivisions, public and municipal corporations, and counties. The  
35 proposed rules shall be subject to full public hearings requirements  
36 associated with rule ((~~promulgation~~)) adoption. Suggestions for  
37 modifications of the proposed rules shall be considered on their

1 merits, and the department shall have the authority and responsibility  
2 for full and appropriate independent (~~(promulgation and)~~) adoption of  
3 rules, assuring consistency with this chapter as amended and with the  
4 preservation of protections afforded by this chapter. The rule-making  
5 powers authorized in this section shall include, but shall not be  
6 limited to, the following phases of interpretation and implementation  
7 of this chapter:

8 (a) Categories of governmental actions which are not to be  
9 considered as potential major actions significantly affecting the  
10 quality of the environment and human health, including categories  
11 pertaining to applications for water right permits pursuant to chapters  
12 90.03 and 90.44 RCW. The types of actions included as categorical  
13 exemptions in the rules shall be limited to those types which are not  
14 major actions significantly affecting the quality of the environment  
15 and human health. The rules shall provide for certain circumstances  
16 where actions which potentially are categorically exempt require  
17 environmental review. An action that is categorically exempt under the  
18 rules adopted by the department may not be conditioned or denied under  
19 this chapter.

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

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

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

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

1 (f) Definition of terms relevant to the implementation of this  
2 chapter including the establishment of a list of elements of the  
3 environment. Analysis of environmental and human health considerations  
4 under RCW 43.21C.030(~~(+2)~~) (1)(b) may be required only for those  
5 subjects listed as elements of the environment (or portions thereof).  
6 The list of elements of the environment shall consist of the "natural"  
7 and "built" environment. The elements of the built environment shall  
8 consist of public services and utilities (such as water, sewer,  
9 schools, fire and police protection), transportation, environmental  
10 health (such as explosive materials and toxic waste), and land and  
11 shoreline use (including housing, and a description of the  
12 relationships with land use and shoreline plans and designations,  
13 including population).

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

18 (h) Methods to assure adequate public awareness of the preparation  
19 and issuance of detailed statements required by RCW  
20 43.21C.030(~~(+2)(e)~~) (1)(b)(iii).

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

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

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

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

34 (m) Rules and procedures that provide for the integration of  
35 environmental review with project review as provided in RCW 43.21C.240.  
36 The rules and procedures shall be jointly developed with the department  
37 of community, trade, and economic development and shall be applicable  
38 to the preparation of environmental documents for actions in counties,

1 cities, and towns planning under RCW 36.70A.040. The rules and  
2 procedures shall also include procedures and criteria to analyze  
3 planned actions under RCW 43.21C.031(2) and revisions to the rules  
4 adopted under this section to ensure that they are compatible with the  
5 requirements and authorizations of chapter 347, Laws of 1995, as  
6 amended by chapter 429, Laws of 1997. Ordinances or procedures adopted  
7 by a county, city, or town to implement the provisions of chapter 347,  
8 Laws of 1995 prior to the effective date of rules adopted under this  
9 subsection (1)(m) shall continue to be effective until the adoption of  
10 any new or revised ordinances or procedures that may be required. If  
11 any revisions are required as a result of rules adopted under this  
12 subsection (1)(m), those revisions shall be made within the time limits  
13 specified in RCW 43.21C.120.

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

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

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

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

28 **Sec. 8.** RCW 43.21C.240 and 2003 c 298 s 2 are each amended to read  
29 as follows:

30 (1) If the requirements of subsection (2) of this section are  
31 satisfied, a county, city, or town reviewing a project action shall  
32 determine that the requirements for environmental analysis, protection,  
33 and mitigation measures in the county, city, or town's development  
34 regulations and comprehensive plans adopted under chapter 36.70A RCW,  
35 and in other applicable local, state, or federal laws and rules provide  
36 adequate analysis of and mitigation for the specific adverse  
37 environmental and human health impacts of the project action to which

1 the requirements apply. Rules adopted by the department according to  
2 RCW 43.21C.110 regarding project specific impacts that may not have  
3 been adequately addressed apply to any determination made under this  
4 section. In these situations, in which all adverse environmental and  
5 human health impacts will be mitigated below the level of significance  
6 as a result of mitigation measures included by changing, clarifying, or  
7 conditioning of the proposed action and/or regulatory requirements of  
8 development regulations adopted under chapter 36.70A RCW or other  
9 local, state, or federal laws, a determination of nonsignificance or a  
10 mitigated determination of nonsignificance is the proper threshold  
11 determination.

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

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

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

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

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

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

37 (b) The legislative body of the county, city, or town has

1 designated as acceptable certain levels of service, land use  
2 designations, development standards, or other land use planning  
3 required or allowed by chapter 36.70A RCW.

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

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

16 (7) This section shall apply only to a county, city, or town  
17 planning under RCW 36.70A.040.

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