
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1952

State of Washington

62nd Legislature

2011 Regular Session

By House General Government Appropriations & Oversight (originally sponsored by Representatives Upthegrove, Short, Fagan, and McCune)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to streamlining the state environmental policy act
2 process; adding new sections to chapter 43.21C RCW; creating a new
3 section; and providing expiration dates.

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

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

7 (1)(a) Except as provided in this section, the proposed actions
8 contained in this section are categorically exempt from the
9 requirements of this chapter if the proposed action is located within
10 or outside an urban growth area designated under RCW 36.70A.110, and
11 the city or county in which the proposed action is located adopts an
12 exemption level consistent with this section. If a proposed action is
13 located in more than one city or county, the lower of the agencies'
14 adopted exemption levels controls regardless of which agency is the
15 lead agency.

16 (b) Any categorical exemption adopted by a city or county under
17 this section is subject to the rules of the department of ecology
18 adopted according to RCW 43.21C.110 that provide exceptions to the use
19 of categorical exemptions.

1 (2)(a) As part of adopting the exemption levels under this section,
2 a city or county shall confirm, by ordinance or resolution, that
3 adequate environmental analysis, protection, and mitigation for the
4 adverse environmental impacts from the specified levels of action are
5 provided by applicable local, state, or federal regulations. A city or
6 county adopting an ordinance or resolution under this subsection shall
7 provide written notice to all agencies with jurisdiction.

8 (b) If the confirmation made under (a) of this subsection relies in
9 part on existing regulations, including rules or laws, of another
10 agency with jurisdiction, the city or county shall provide written
11 notice to that agency and consider agency comments, and shall condition
12 its project approval on compliance with all such applicable
13 regulations.

14 (c) An ordinance or resolution adopted by a city or county under
15 (a) of this subsection may:

16 (i) Establish lower exemption levels for specific geographic areas
17 within the city or county; and

18 (ii) Specify varying exemption levels for the elements of the
19 natural or built environment that are included in the confirmation made
20 under (a) of this subsection.

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

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

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

29 (iii) Excluding feed lots, the construction of a barn, loafing
30 shed, farm equipment storage building, produce storage or packing
31 structure, or similar agricultural structure, covering up to seventy-
32 five thousand square feet, and to be used only by the property owner or
33 the property owner's agent in the conduct of farming the property;

34 (iv) The construction of an office, school, commercial,
35 recreational, service, or storage building with thirty thousand or
36 fewer square feet of gross floor area, and with associated parking
37 facilities designed for one hundred automobiles or fewer;

1 (v) The construction of a parking lot designed for one hundred
2 automobiles or fewer; and

3 (vi) Any landfill or excavation of one thousand two hundred cubic
4 yards or fewer of disturbed area throughout the total lifetime of the
5 fill or excavation.

6 (b) If a city or county does not adopt an exemption level
7 consistent with this subsection, the exemption levels established by
8 rule by the department of ecology in accordance with RCW 43.21C.110
9 apply.

10 (4)(a) Except as provided in subsection (1)(b) of this section, the
11 following types of construction are categorically exempt from the
12 requirements of this chapter if the proposed action is located outside
13 an urban growth area designated under RCW 36.70A.110:

14 (i) The construction or location of single-family residential
15 developments of thirty-five dwelling units or fewer;

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

21 (iii) The construction of an office, school, commercial,
22 recreational, service, or storage building with twenty-one thousand or
23 fewer square feet of gross floor area, and with associated parking
24 facilities designed for seventy automobiles or fewer; and

25 (iv) Any landfill or excavation of eight hundred seventy-five cubic
26 yards or fewer of disturbed area throughout the total lifetime of the
27 fill or excavation.

28 (b) If a city or county does not adopt an exemption level
29 consistent with this subsection, the exemption levels established by
30 rule by the department of ecology in accordance with RCW 43.21C.110
31 apply.

32 (5) This section expires December 31, 2012.

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

35 (1) The department of ecology shall initiate rule making under
36 chapter 34.05 RCW to adopt categorical exemptions and exemption levels
37 consistent with section 1 of this act and this section.

1 (2)(a) Except as provided in (b) of this subsection, the exemption
2 levels adopted by the department of ecology may be lower or higher than
3 the exemption levels provided in section 1 of this act.

4 (b) If the department of ecology determines that a lower exemption
5 level is demonstrably necessary to achieve the goals of this chapter,
6 the department of ecology may adopt exemption levels that are lower
7 than the exemption levels provided in section 1 of this act. In no
8 circumstances may the exemption levels adopted by the department of
9 ecology under this section be lower than the exemption levels provided
10 in WAC 197-11-800 as it exists on the effective date of this section.

11 (c) The department of ecology may not use this section to adopt
12 rules concerning any issue not specifically addressed under this
13 section.

14 (3) All rules adopted by the department of ecology under this
15 section must be adopted and effective by December 31, 2012.

16 (4)(a) By December 31, 2011, the department of ecology shall
17 provide a report to the legislature concerning the progress of its rule
18 making initiated under this section.

19 (b) By December 31, 2012, the department of ecology shall provide
20 a report concerning the outcome of its rule making initiated under this
21 section, including the rationale used by the department of ecology in
22 determining exemption levels.

23 (c) The reports required under this subsection must be submitted to
24 the legislature consistent with RCW 43.01.036.

25 (5) This section expires July 31, 2013.

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

28 Temporary farmers markets or mobile food vendors on previously
29 developed sites covering up to thirty thousand square feet are
30 categorically exempt from the requirements of this chapter.

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

33 (1) The utility-related actions listed in subsection (2) of this
34 section are categorically exempt from the requirements of this chapter,
35 except for installation, construction, or alteration on lands covered
36 by water. The exemption includes installation and construction,

1 relocation when required by other governmental bodies, repair,
2 replacement, maintenance, operation, or alteration that does not change
3 the action from an exempt class.

4 (2) Except as provided in subsection (1) of this section, the
5 following are categorically exempt from the requirements of this
6 chapter:

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

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

12 (c) Placing electric facilities, lines, equipment, or appurtenances
13 underground.

14 (3) The department of ecology may adopt additional categorical
15 exemptions for utility-related actions in accordance with RCW
16 43.21C.110.

17 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this
18 act, referencing this act by bill or chapter number, is not provided by
19 June 30, 2011, in the omnibus appropriations act, this act is null and
20 void.

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