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HOUSE BILL 2070

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**By** Representatives Mena, Pollet, Fitzgibbon, Berry, Simmons, Reed, Ormsby, Ramel, Fey, Street, Slatter, Ortiz-Self, Alvarado, Doglio, Cortes, Riccelli, Santos, Reeves, and Macri

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1 AN ACT Relating to integrating environmental justice  
2 considerations into certain project decisions; adding new sections to  
3 chapter 43.21C RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The purpose of this act is to reduce the  
6 disparities in cumulative environmental and health impacts in  
7 Washington and improve the health of all Washington residents.

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

10 The definitions in this section apply throughout sections 3  
11 through 6 of this act unless the context clearly requires otherwise.

12 (1) "Adverse cumulative stressors" means that the combined  
13 stressor total of the pollution burdened community is higher than the  
14 pollution burdened community's geographic point of comparison or  
15 would be made higher than the pollution burdened community's  
16 geographic point of comparison as a result of a potentially impactful  
17 project's contribution.

18 (2) "Adverse environmental and public health stressor" means a  
19 stressor in the pollution burdened community that is higher than a  
20 pollution burdened community's geographic point of comparison or

1 would be made higher than a pollution burdened community's geographic  
2 point of comparison as a result of a potentially impactful project's  
3 contribution.

4 (3) "Change in use" means a change in the type of operation of an  
5 existing potentially impactful project that significantly increases  
6 the potentially impactful project's contribution to any environmental  
7 and public health stressor in a pollution burdened community.

8 (4) "Combined stressor total" means the sum of adverse  
9 environmental and public health stressors in a pollution burdened  
10 community.

11 (5) (a) "Compelling public interest" means a demonstration by a  
12 proponent of a proposed new potentially impactful project that the  
13 potentially impactful project primarily serves an essential  
14 environmental, health, or safety need of the individuals in a  
15 pollution burdened community, is necessary to serve the essential  
16 environmental health or safety need, and that there are no other  
17 means reasonably available to meet the essential environmental,  
18 health, or safety need.

19 (b) "Compelling public interest" does not include consideration  
20 of the economic benefits of a proposed new potentially impactful  
21 project or the expansion of an existing potentially impactful  
22 project.

23 (6) (a) "Disproportionate impact" means the potentially impactful  
24 project cannot avoid either:

25 (i) Creating adverse cumulative stressors in a pollution burdened  
26 community as a result of the potentially impactful project's  
27 contribution; or

28 (ii) Contributing to an adverse environmental and public health  
29 stressor in a pollution burdened community that is already subject to  
30 adverse cumulative stressors.

31 (b) A potentially impactful project located either in whole or in  
32 part in a pollution burdened community is capable of having a  
33 disproportionate impact on that community.

34 (7) "Environmental justice impact statement" means a systematic,  
35 interdisciplinary, and integrated assessment of environmental and  
36 public health conditions in a pollution burdened community that  
37 identifies and analyzes:

38 (a) Existing environmental and public health stressors;

39 (b) Any adverse environmental and public health stressors;

40 (c) The presence or absence of adverse cumulative stressors;

1 (d) Potential environmental and public health stressors  
2 associated with a potentially impactful project;

3 (e) Whether the potentially impactful project can avoid causing  
4 or contributing to a disproportionate impact;

5 (f) Alternative locations where the potentially impactful project  
6 could be located;

7 (g) The measures the potentially impactful project proposes to  
8 implement to avoid or mitigate causing or contributing to any  
9 disproportionate impact; and

10 (h) Where applicable, how the new potentially impactful project  
11 serves a compelling public interest in a pollution burdened  
12 community.

13 (8) "Environmental or public health stressors" means sources of  
14 environmental pollution or conditions that may cause potential public  
15 health impacts such as, but not limited to, asthma, cancer, elevated  
16 blood lead levels, cardiovascular disease, developmental problems,  
17 and low birth weight in the overburdened communities, including, but  
18 not limited to:

19 (a) Concentrated areas of air pollution and mobile sources of air  
20 pollution:

21 (i) Criteria pollutants including particulate matter 2.5 (PM  
22 2.5), particulate matter 10 (PM 10), sulfur dioxide (SO<sub>2</sub>), nitrogen  
23 dioxide (Nox), lead, carbon dioxide (CO), and ozone;

24 (ii) Wildfire smoke;

25 (iii) Ozone concentration;

26 (iv) Diesel exhaust PM<sub>2.5</sub> emissions;

27 (v) Cancer risk from air toxics excluding diesel particulate  
28 matter;

29 (vi) Noncancer risk from air toxics;

30 (vii) Hazardous air pollutants;

31 (viii) Toxic releases from facilities into air; and

32 (ix) Proximity to heavy traffic roadways;

33 (b) Water pollution:

34 (i) Drinking water quality;

35 (ii) Marine water quality;

36 (iii) Fish and shellfish health advisories;

37 (iv) Wastewater discharge;

38 (v) Surface water quality;

39 (vi) Groundwater quality; and

40 (vii) Combined sewer overflows;

1 (c) Environmental hazards in communities or contaminated sites:  
2 (i) Railways, airports, or ports;  
3 (ii) Lead risk from housing;  
4 (iii) Use of leaded fuels;  
5 (iv) Density of or proximity to known contaminated sites and  
6 clean-up sites:  
7 (A) Hazardous waste treatment, storage, and disposal sites;  
8 (B) Superfund sites;  
9 (C) Risk management plan sites;  
10 (D) Confirmed and suspected contaminated sites; and  
11 (E) Formerly used defense sites; and  
12 (v) Environmental covenants registry; and  
13 (d) Social determinants of health:  
14 (i) Unemployment;  
15 (ii) Educational attainment;  
16 (iii) People living in poverty;  
17 (iv) Percent of children eligible for free or reduced-priced  
18 lunch; and  
19 (v) Limited English-speaking households.  
20 (9) "Existing potentially impactful project" means a potentially  
21 impactful project, or any portion thereof, which, as of the effective  
22 date of this section, possesses a valid approved registration or  
23 permit from a lead agency for its operation or construction and is in  
24 operation.  
25 (10)(a) "Expansion" means a modification or expansion of an  
26 existing potentially impactful project's operations or footprint  
27 where the development could increase any environmental and public  
28 health stressor in a pollution burdened community.  
29 (b) "Expansion" does not include any activity that decreases or  
30 does not otherwise result in an increase in stressor contributions.  
31 (11) "Geographic point of comparison" means the comparison area  
32 and value used to determine whether a pollution burdened community is  
33 subject to one or more adverse environmental and public health  
34 stressors. A geographic point of comparison is determined by  
35 selecting the lower value of the 50th percentile of the state or  
36 county in which the pollution burdened community is located,  
37 calculated excluding the values of other pollution burdened  
38 communities.  
39 (12) "Net environmental benefit" means a reduction of baseline  
40 environmental and public health stressors in a pollution burdened

1 community or other action that improves environmental or public  
2 health stressors in a pollution burdened community, as determined by  
3 the lead agency.

4 (13) "New potentially impactful project" means any potentially  
5 impactful project for which review under this chapter has not been  
6 initiated as of the effective date of this section or a change in use  
7 of an existing potentially impactful project. For the purposes of  
8 this chapter, an existing potentially impactful project that has  
9 operated without a valid approved registration or permit required by  
10 the department of ecology prior to the effective date of this section  
11 must be considered a new potentially impactful project.

12 (14) "Pollution burdened community" means a community:

13 (a) Ranked as a seven or higher on the environmental health  
14 disparities map developed under RCW 43.70.815;

15 (b) Identified as disadvantaged using the climate and economic  
16 justice screening tool developed by the United States council on  
17 environmental quality, as that tool existed as of January 1, 2024; or

18 (c) Identified as disadvantaged, or an analogous designation,  
19 using a successor to the climate and economic justice screening tool  
20 developed by the United States council on environmental quality, if  
21 adopted by rule by the department of ecology under section 7(3) of  
22 this act.

23 (15)(a) "Potentially impactful project" means projects that are:

24 (i) A major source of air pollution regulated and required to  
25 obtain an operating permit under chapter 70A.15 RCW;

26 (ii) A source regulated and required to obtain a notice of  
27 construction permit under chapter 70A.15 RCW;

28 (iii) A source regulated and required to obtain a prevention of  
29 significant deterioration permit under chapter 70A.15 RCW;

30 (iv) A source regulated and required to obtain a general order  
31 permit under chapter 70A.15 RCW;

32 (v) A significant source of air pollution from transportation  
33 impacts associated with the project;

34 (vi) An incinerator, as defined in RCW 70A.216.010;

35 (vii) A processing facility, combustor, or incinerator of  
36 municipal sewage sludge, as defined in RCW 70A.226.010;

37 (viii) A sewage treatment plant;

38 (ix) A transfer station, landfill, scrap metal facility, or other  
39 solid waste facility required to obtain a solid waste handling permit  
40 under chapter 70A.205 RCW;

- 1 (x) A medical waste incinerator; or  
2 (xi) A project covered by a permit under chapter 90.48 RCW other  
3 than:  
4 (A) A construction general permit;  
5 (B) An industrial stormwater general permit;  
6 (C) A municipal stormwater general permit;  
7 (D) A fresh fruit packing general permit;  
8 (E) A boatyard general permit;  
9 (F) An environmental protection agency vessel general permit;  
10 (G) A winery general permit; and  
11 (H) A bridge and ferry terminal washing permit.  
12 (b) "Potentially impactful project" does not include:  
13 (i) A clean energy project, as that term is defined in RCW  
14 43.158.010; or  
15 (ii) Projects related to facilities with North American industry  
16 classification system code 92811 (national security) or similar  
17 national security facilities administered by the United States  
18 government.  
19 (16) "Renewal" means the continuation of existing permitted  
20 operations at a major facility without change. A lead agency must  
21 treat as a renewal all modifications or changes of operations that  
22 decrease or do not otherwise increase a facility's contributions to  
23 stressors.

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

26 (1) As a supplemental component of the analysis required under  
27 RCW 43.21C.030 for any proposed action associated with a new or  
28 expanding potentially impactful project or the renewal of an existing  
29 potentially impactful project's permit located or proposed to be  
30 located in whole or in part in a pollution burdened community, a lead  
31 agency must complete an environmental justice impact statement  
32 consistent with the requirements of this section. This section  
33 applies only to proposed actions associated with a new potentially  
34 impactful project, expansion of an existing potentially impactful  
35 project, or renewal of an existing potentially impactful project's  
36 permit for which review under this chapter had not been initiated as  
37 of the effective date of this section and is completed on or after  
38 January 1, 2027.

1 (2) An environmental justice impact statement prepared by a lead  
2 agency under this section must assess:

3 (a) The potential environmental and public health stressors  
4 associated with the proposed new or expanding potentially impactful  
5 project, or with the existing potentially impactful project, as  
6 applicable;

7 (b) Any adverse environmental or public health stressors that  
8 cannot be avoided if the permit is granted; and

9 (c) The environmental or public health stressors already borne by  
10 the pollution burdened community as a result of existing conditions  
11 located in or affecting the pollution burdened community.

12 (3)(a) The lead agency must complete the environmental justice  
13 impact statement at or before the time that a proposed action  
14 receives a determination of significance, a determination of  
15 nonsignificance, or a determination of mitigated nonsignificance. The  
16 lead agency must complete the environmental justice impact statement  
17 if a proposed action may cause a disproportionate impact on an  
18 overburdened community and without regard to the type of threshold  
19 determination under this chapter that the project receives related to  
20 the environmental impacts of the proposed action other than its  
21 environmental justice impacts.

22 (b) Upon completion of the environmental justice impact  
23 statement, the lead agency must transmit the environmental justice  
24 impact statement to the office of financial management, and the  
25 office of financial management must publish the environmental justice  
26 impact statement on the website established under RCW 70A.02.090. The  
27 office of financial management's website list of environmental  
28 justice impact statements must include a brief description of the  
29 agency action undergoing review under this section, a brief summary  
30 of the findings of the environmental justice impact statement, and  
31 the methods for providing public comment under subsection (4) of this  
32 section for lead agency consideration as part of the environmental  
33 justice impact assessment. The environmental justice impact statement  
34 must be published by the office of financial management at least 30  
35 days in advance of the public hearing required under subsection (4)  
36 of this section, and must be published in a manner that meets  
37 community engagement rules adopted by the department of ecology that  
38 apply: (i) Best practices for outreach and communication to overcome  
39 barriers to engagement with highly impacted communities; (ii)  
40 processes that facilitate and support the inclusion of members of

1 communities affected by agency decision making; and (iii) methods for  
2 outreach and communication with those who face barriers, language or  
3 otherwise, to participation.

4 (4) (a) No sooner than 60 days after the publication by the office  
5 of financial management of the environmental justice impact statement  
6 under subsection (3) of this section, the lead agency must organize  
7 and conduct a public hearing in the pollution burdened community on  
8 the environmental justice impact statement. This hearing may be held  
9 coincident with other hearings required under this chapter or under  
10 other applicable laws, but only if the minimum public notice and  
11 community engagement requirements of this section and any similar  
12 requirements applicable to the coincident hearing are individually  
13 met. The notice of the public hearing published by the lead agency  
14 and the office of financial management must include the date, time,  
15 and location of the public hearing, a description of the proposed  
16 potentially impactful project, a brief summary of the environmental  
17 justice impact statement including a listing of all potential  
18 environmental and health stressors associated with the project,  
19 information on how an interested person may review a copy of the  
20 complete environmental justice impact statement, and information  
21 regarding the opportunities for public comment to the lead agency on  
22 the environmental justice impact assessment. The lead agency may also  
23 provide notice through other methods identified by the agency to  
24 ensure direct and adequate notice to individuals in the overburdened  
25 community including, but not limited to, providing information  
26 directly to active community groups or organizations, automated  
27 phone, voice, or electronic notice, flyers, and utilization of other  
28 publications utilized within the overburdened community.

29 (b) At the public hearing required in this section, the lead  
30 agency must provide clear, accurate, and complete information about  
31 the proposed potentially impactful project. A lead agency must  
32 require participation in the hearing by the project proponent for the  
33 potentially impactful project or other proponent of government action  
34 related to the potentially impactful project that is the subject of  
35 the environmental justice impact assessment.

36 (c) The lead agency must accept written and oral comments from  
37 any interested party at the public hearing, transcribe and make  
38 publicly available any oral comments given during the public hearing  
39 within a reasonable period of time after the public hearing, and



1 provide an opportunity for meaningful public participation at the  
2 public hearing.

3 (5) At least 45 days subsequent to both the publication of the  
4 environmental justice impact statement and public hearing under this  
5 section, and taking into consideration both the environmental justice  
6 impact statement and the testimony and written comments from the  
7 public hearing under this section, a lead agency must:

8 (a) Deny, consistent with RCW 43.21C.060, an action associated  
9 with a new potentially impactful project or the expansion of an  
10 existing potentially impactful project in a pollution burdened  
11 community upon finding that the government action would, together  
12 with other environmental or public health stressors affecting the  
13 pollution burdened community, cause or contribute to adverse  
14 cumulative environmental or public health stressors in the pollution  
15 burdened community that are higher than those borne by other  
16 communities in the geographic point of comparison, unless the  
17 potentially impactful project or expansion would serve a compelling  
18 public interest;

19 (b) Mitigate, consistent with RCW 43.21C.060, an action  
20 associated with a new potentially impactful project or the expansion  
21 of an existing potentially impactful project in a pollution burdened  
22 community upon finding that the government action would, together  
23 with other environmental harms affecting the pollution burdened  
24 community, cause or contribute to environmental harms in the  
25 pollution burdened community that are higher than those borne by  
26 other communities in the geographic point of comparison, if the lead  
27 agency determines that the new potentially impactful project will  
28 serve a compelling public interest in the community where it is to be  
29 located; and

30 (c) Mitigate, consistent with RCW 43.21C.060, an action  
31 associated with the renewal of a permit to an existing potentially  
32 impactful project in a pollution burdened community upon finding that  
33 the government action would, together with other environmental harms  
34 affecting the pollution burdened community, cause or contribute to  
35 environmental harms in the pollution burdened community that are  
36 higher than those borne by other communities in the geographic point  
37 of comparison.

38 (6) The lead agency may not exercise its authority in subsection  
39 (5) of this section in a manner that would compromise the reasonable

1 requirements of public health, safety, and welfare to the environment  
2 in the pollution burdened community.

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

5 (1)(a) Where the pollution burdened community is not subject to  
6 adverse cumulative stressors and the lead agency demonstrates,  
7 through an analysis of the potentially impactful project's  
8 contributions to the existing environmental and public health  
9 stressors in the pollution burdened community, that the potentially  
10 impactful project will avoid causing a disproportionate impact that  
11 would occur by creating adverse cumulative stressors as a result of  
12 the potentially impactful project's contribution, only the  
13 information pursuant to subsection (2) of this section is required to  
14 be included in an environmental justice impact statement.

15 (b) Where the potentially impactful project cannot avoid a  
16 disproportionate impact that would occur by creating adverse  
17 cumulative stressors as a result of the potentially impactful  
18 project's contribution, the lead agency shall include information  
19 required pursuant to both subsections (2) and (3) of this section,  
20 including analyzing and proposing feasible measures to, as  
21 applicable, avoid or minimize contributions to environmental and  
22 public health stressors, provide a net environmental benefit and,  
23 where appropriate, demonstrate how the potentially impactful project  
24 serves a compelling public interest in the pollution burdened  
25 community.

26 (c) Where the pollution burdened community is subject to adverse  
27 cumulative stressors, the lead agency shall include information  
28 required pursuant to both subsections (2) and (3) of this section.

29 (d) A lead agency that is required to provide the information  
30 under subsection (3) of this section must determine whether the  
31 potentially impactful project can, as applicable, first avoid a  
32 disproportionate impact or, where a disproportionate impact will  
33 occur, address its contributions to environmental and public health  
34 stressors in the pollution burdened community.

35 (2) In its environmental justice impact statement, a lead agency  
36 reviewing a potentially impactful project located, or proposed to be  
37 located, in whole or in part, in a pollution burdened community must  
38 require information from the proponent of the proposed action as  
39 necessary, and include:

1 (a) An executive summary of the information contained in the  
2 environmental justice impact statement, including any supplemental  
3 information as required in subsection (3) of this section;

4 (b) A detailed written description of the municipal and  
5 neighborhood setting of the potentially impactful project, including  
6 the location of community and residential dwellings, hospitals,  
7 nursing homes, playgrounds, parks, schools, and comprehensive  
8 demographic and economic zoning. The site location must also be  
9 identified by a site plan of the potentially impactful project or  
10 equivalent map if no site plan exists;

11 (c) A description of the potentially impactful project's current  
12 and proposed operations, which must include, but not be limited to,  
13 the following:

14 (i) An explanation of the purpose of the permit application,  
15 including how, if at all, the project serves the needs of the  
16 individuals in the pollution burdened community;

17 (ii) Identification of all processes to be used, including  
18 pollution or environmental control measures and monitoring  
19 instrumentation, hours of operation, on-site equipment, traffic  
20 routes, number of employees, and all other information relevant to  
21 the potential for the new potentially impactful project to contribute  
22 to environmental and public health stressors in the pollution  
23 burdened community; and

24 (iii) For new or expanded facilities, a schedule for the  
25 construction and operation including anticipated completion dates for  
26 major phases of construction, any pollution or environmental control  
27 measures and monitoring instrumentation, hours of operation, on-site  
28 equipment, traffic routes, number of employees, and all other  
29 information relevant to the potential for the construction to  
30 contribute to environmental and public health stressors in the  
31 pollution burdened community;

32 (d) Evidence of satisfaction of any local environmental justice  
33 or cumulative impact analysis ordinances with which the project  
34 proponent is required to comply;

35 (e) (i) A listing of the existing environmental and public health  
36 stressors in the pollution burdened community and an indication of  
37 the appropriate geographic point of comparison for each stressor by  
38 selecting the lower of the 50th percentile of the state or county's  
39 equivalent stressor, excluding other pollution burdened communities  
40 from the comparison;

1 (ii) An indication of which environmental and public health  
2 stressors are considered adverse by comparing the value of each  
3 stressor in the pollution burdened community with the appropriate  
4 geographic point of comparison;

5 (iii) A combined stressor total value to be calculated by summing  
6 the number of adverse environmental and public health stressors in  
7 the pollution burdened community. The lead agency shall indicate the  
8 appropriate geographic point of comparison for the combined stressor  
9 total by selecting the lower of the 50th percentile of the state or  
10 county's combined stressor totals excluding the combined stressor  
11 totals of other pollution burdened communities from the comparison;

12 (iv) A determination of whether the pollution burdened community  
13 is subject to stressors by comparing the combined stressor total to  
14 the appropriate geographic point of comparison. If the potentially  
15 impactful project is located, or proposed to be located, in whole or  
16 in part, in more than one pollution burdened community, the lead  
17 agency will apply the higher combined stressor total of the  
18 overburdened communities for the purposes of this analysis;

19 (f) An assessment of the impacts, both positive and negative, of  
20 the potentially impactful project on each environmental and public  
21 health stressor in the pollution burdened community identified as  
22 affected under conditions of maximum usage or output, and a  
23 correlation of such impacts with various stages of the site  
24 preparation, and potentially impactful project construction and  
25 operation, including the amounts, concentrations, and pathways of any  
26 contaminants or pollution that will be associated with the  
27 potentially impactful project;

28 (g) A public participation plan that, at a minimum, satisfies the  
29 requirements of section 2 of this act, including all proposed forms  
30 and methods of notice to the members of the pollution burdened  
31 community and the proposed hearing location;

32 (h) A demonstration, including any necessary operational  
33 conditions and control measures, that the potentially impactful  
34 project will avoid a disproportionate impact that would occur by  
35 creating adverse cumulative stressors in the pollution burdened  
36 community as a result of the potentially impactful project's  
37 contribution. If the project proponent cannot make such a  
38 demonstration, then it is presumed that a disproportionate impact is  
39 present and the project proponent shall include the information  
40 required in subsection (3) of this section; and

1 (i) As applicable, how a proposed new potentially impactful  
2 project will serve a compelling public interest in the pollution  
3 burdened community.

4 (3) If the lead agency determines a potentially impactful project  
5 is located, or proposed to be located, in whole or in part, in a  
6 pollution burdened community that is subject to adverse cumulative  
7 stressors or the project proponent cannot demonstrate that it will  
8 avoid a disproportionate impact that would occur by creating adverse  
9 cumulative stressors in the pollution burdened community as a result  
10 of the potentially impactful project's contribution, a project  
11 proponent shall provide to the lead agency, to the extent requested  
12 by the lead agency, information sufficient for the lead agency to  
13 include the following in the environmental justice impact statement:

14 (a) A site mapping showing:

15 (i) Topographic conditions, contour data, drainage patterns,  
16 wetlands or their associated buffers, coastal zones, or other areas  
17 regulated by the lead agency;

18 (ii) Areas of known plant or animal species on the federal and  
19 state endangered, threatened, or rare plant or animal species list;

20 (iii) All existing water classifications, designated uses, and  
21 limitations of the surface water bodies that are immediately adjacent  
22 to the site, exist on the site, or drain directly onto or off the  
23 site, upstream tributaries of bodies of water that flow onto the  
24 site, and downstream tributaries of bodies of water which flow from  
25 the site; and

26 (iv) Any existing on-site public scenic attributes or outdoor  
27 recreation and conservation opportunities in the pollution burdened  
28 community, such as any federal, state, county, or municipal parks,  
29 forests, wildlife management areas and natural areas, any areas  
30 acquired for recreation and conservation purposes, any lands  
31 preserved as open space by a nonprofit conservation organization, or  
32 other public access features;

33 (b) Information pertaining to the existence or absence of  
34 contamination on site, which may include the existence of known or  
35 suspected contaminants, historical uses of the site, and any  
36 remediation activities that have occurred on the site;

37 (c) A description of the ambient air quality data for existing  
38 concentrations of the national ambient air quality standard  
39 pollutants as identified at 42 U.S.C. Sec. 7401 et seq., and a  
40 discussion of how the potentially impactful project will comply with

1 the requirements of rules adopted by the department of ecology  
2 pursuant to chapter 70A.15 RCW;

3 (d) A description of the subsurface hydrology that presents  
4 groundwater quantity and quality data for the aquifers located  
5 beneath the site including, but not limited to, depth to groundwater  
6 during seasonal high and low flow, flow direction, existing uses, and  
7 future supply capabilities. In addition, a description of the soils  
8 that identifies major soil types and their characteristics including,  
9 but not limited to, drainage, erosion potential, and sedimentation  
10 potential;

11 (e) A description of the localized climate and flooding impacts  
12 through the presentation of site-specific data for average annual and  
13 monthly precipitation, flooding, and temperature. Meteorological data  
14 may be obtained from the nearest national oceanographic and  
15 atmospheric administration sanctioned station. At a minimum, the  
16 description must use data and tools from the department of health's  
17 Washington tracking network, which must be referenced in the prepared  
18 document, and address:

19 (i) Whether the potentially impactful project is located within a  
20 flood hazard area;

21 (ii) The expected impacts of flooding on the potentially  
22 impactful project from the 100-year storm event or potential  
23 inundation due to sea level rise;

24 (iii) Proposed resilience measures; and

25 (iv) A list of measures to mitigate risks from flooding and  
26 inundation;

27 (f) A traffic study that describes the transportation routes that  
28 will service the new potentially impactful project, site access  
29 capability, and existing traffic flow patterns expressed in terms of  
30 daily peak hour volumes, off peak hour volumes, levels of service,  
31 and average daily round trips, and the potentially impactful  
32 project's current and proposed contributions thereto for all vehicles  
33 associated with the potentially impactful project's operations;

34 (g) A description of the sewage facilities that identifies the  
35 type of treatment system available, existing treatment capacity,  
36 collection system capacity, average and peak flow data, and current  
37 committed capacity for the treatment and collection system;

38 (h) A description of the stormwater management system that  
39 identifies the type of collection and treatment system available, and

1 current collection and treatment capacity and utilization, including  
2 the presence or absence of combined sewer overflows;

3 (i) A description of the water supply that identifies the water  
4 supply system, water sources, level and type of existing  
5 pretreatment, capacity of the distribution system, current commitment  
6 of capacity, availability of additional supply, and peak and average  
7 demands;

8 (j) A description of the energy supply system on-site or  
9 immediately available to the site by identifying existing power lines  
10 or pipelines, current commitment of capacity, the capability of  
11 supplying energy to the proposed potentially impactful project or  
12 activity, and conveying, if applicable, any energy products generated  
13 by the proposed potentially impactful project and activity from the  
14 site. This analysis must include an evaluation of the feasibility of  
15 the utilization of on-site or off-site renewable energy resources to  
16 meet, fully or partially, the energy demand of the potentially  
17 impactful project;

18 (k) For new or expanded facilities, a sufficiently detailed  
19 comparison of reasonable design alternatives that would permit  
20 independent and comparative evaluation, including siting changes or  
21 process alternatives that could reduce some or all of the proposed  
22 potentially impactful project's contributions to environmental and  
23 public health stressors in the overburdened community, including:

24 (i) Identification of any significant differences in  
25 contributions to environmental and public health stressors that would  
26 reasonably result from the alternatives considered;

27 (ii) A discussion of the alternative of no action or no project,  
28 including the major foreseeable consequences of such a choice;

29 (iii) A comparison, in matrix or other appropriate format, of  
30 both the chosen alternative and the set of alternatives considered;

31 and

32 (iv) A justification of selection of the preferred alternative;

33 (l) An odor, dust, and noise mitigation or management plan, if:

34 (i) The potentially impactful project has the potential to cause  
35 odor, dust, or noise off-site;

36 (ii) The potentially impactful project has had a confirmed odor,  
37 dust, or noise complaint submitted through the Washington state  
38 environmental report tracking system, regional air agency, or the  
39 local health agency for the five years preceding the date of the  
40 permit application; or

1 (iii) A detailed compliance history for the potentially impactful  
2 project, if applicable, including any existing federal, state, or  
3 local permits and copies of any enforcement actions issued to the  
4 potentially impactful project for the five years preceding the date  
5 of the initiation of the environmental justice impact statement; and

6 (m) An analysis and proposal of control measures to address the  
7 potentially impactful project's contribution to environmental and  
8 public health stressors in accordance with this section and section 5  
9 of this act.

10 (4) A project proponent may elect to submit the information  
11 specified in this section to a lead agency independent of whether the  
12 potentially impactful project:

13 (a) Is located, or proposed to be located, in whole or in part,  
14 in a pollution burdened community that is subject to adverse  
15 cumulative stressors; or

16 (b) Cannot demonstrate that it will avoid a disproportionate  
17 impact that would occur by creating adverse cumulative stressors in  
18 the pollution burdened community as a result of the potentially  
19 impactful project's contribution.

20 (5) Following the completion of the public participation process  
21 detailed in section 2 of this act, the lead agency shall consider the  
22 environmental justice impact statement, and any supplemental  
23 information, testimony, written comments, the project proponent's  
24 response to comments, and any other information deemed relevant by  
25 the lead agency to determine whether the potentially impactful  
26 project can avoid a disproportionate impact, determine whether to  
27 deny or approve the proposed action, and evaluate whether and how to  
28 impose conditions concerning the construction and operation of the  
29 potentially impactful project to address its contributions to  
30 environmental and public health stressors affecting the pollution  
31 burdened community.

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

34 (1) A project proponent for a new potentially impactful project  
35 or the expansion of an existing potentially impactful project that is  
36 proposed to be located, in whole or in part, in a pollution burdened  
37 community that is subject to adverse cumulative stressors shall  
38 analyze and propose all control measures necessary to avoid  
39 potentially impactful project contributions to all adverse



1 environmental and public health stressors in the pollution burdened  
2 community. Where the control measures proposed by the project  
3 proponent will prevent a disproportionate impact by avoiding the  
4 potentially impactful project's contributions to all adverse  
5 environmental and public health stressors in the overburdened  
6 community, the lead agency may condition the proposed action  
7 consistent with RCW 43.21C.060.

8 (2) Where the control measures proposed by the project proponent  
9 cannot avoid a disproportionate impact, the lead agency shall deny  
10 the proposed action pursuant to RCW 43.21C.060, unless the applicant  
11 demonstrates that the proposed potentially impactful project will  
12 serve a compelling public interest in the pollution burdened  
13 community, in accordance with subsections (3) and (4) of this  
14 section.

15 (3) (a) A proponent of a proposed action that seeks approval for a  
16 proposed new potentially impactful project or the expansion of an  
17 existing potentially impactful project that will serve a compelling  
18 public interest in the pollution burdened community where it is to be  
19 located must demonstrate that:

20 (i) The proposed new potentially impactful project will primarily  
21 serve essential environmental, health, or safety needs of the  
22 individuals in a pollution burdened community;

23 (ii) The proposed new potentially impactful project is necessary  
24 to serve the essential environmental, health, or safety needs of the  
25 individuals in a pollution burdened community; and

26 (iii) There are no reasonable alternatives that can be sited  
27 outside the pollution burdened community to serve the essential  
28 environmental, health, or safety needs of the individuals in the  
29 pollution burdened community.

30 (b) Facilities that directly reduce adverse environmental and  
31 public health stressors in the pollution burdened community may be  
32 considered as serving an essential environmental, health, or safety  
33 need of the individuals in an overburdened community.

34 (c) The lead agency may consider, as relevant, public input as to  
35 whether a compelling public interest is demonstrated if there is a  
36 significant degree of public interest in favor of or against an  
37 application from individuals residing in the pollution burdened  
38 community. In addition to any other public comment provided pursuant  
39 to this chapter, the lead agency may seek input from the public

1 whenever it determines that such comments may clarify whether the  
2 compelling public interest standard is met.

3 (4) (a) A proponent for a proposed new potentially impactful  
4 project that seeks to demonstrate a compelling public interest, shall  
5 propose control measures.

6 (b) For any aspects of a new potentially impactful project's  
7 operations not addressed in (a) of this subsection, the project  
8 proponent shall propose control measures in the following order:

9 (i) All feasible measures to avoid potentially impactful project  
10 contributions to environmental and public health stressors;

11 (ii) For any contribution that cannot feasibly be avoided, all  
12 feasible on-site measures to minimize potentially impactful project  
13 contributions to environmental and public health stressors;

14 (iii) All feasible off-site measures within the overburdened  
15 community to reduce environmental and public health stressors to  
16 which the potentially impactful project will contribute;

17 (iv) All feasible off-site measures within the pollution burdened  
18 community to reduce adverse environmental and public health stressors  
19 to which the potentially impactful project will not contribute, with  
20 preference for the reduction of stressors from highest to lowest  
21 percentile in relation to the geographic point of comparison; and

22 (v) All feasible off-site measures within the pollution burdened  
23 community to provide a net environmental benefit in the overburdened  
24 community.

25 (5) Where the applicant can demonstrate that the proposed  
26 potentially impactful project will serve a compelling public interest  
27 in the pollution burdened community, the department of ecology shall  
28 impose conditions in accordance with RCW 43.21C.060.

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

31 (1) (a) In addition to the analysis and measures required in  
32 sections 3 and 4 of this act, a project proponent for the renewal of  
33 an existing permit that is to be located, in whole or in part, in a  
34 pollution burdened community that is subject to adverse cumulative  
35 stressors shall analyze and propose feasible control measures  
36 necessary to avoid potentially impactful project contributions to all  
37 adverse environmental and public health stressors in the pollution  
38 burdened community. Where the control measures proposed by the  
39 project proponent will prevent a disproportionate impact by avoiding

1 potentially impactful project contributions to all adverse  
2 environmental and public health stressors in the pollution burdened  
3 community, the lead agency may approve the proposed action in  
4 accordance with RCW 43.21C.060.

5 (b) Where the control measures proposed by the project proponent  
6 cannot avoid a disproportionate impact, the department of ecology may  
7 impose conditions in accordance with RCW 43.21C.060.

8 (2) As part of its environmental justice impact statement, a  
9 proponent of a potentially impactful project's permit renewal subject  
10 to this section shall submit a potentially impactful project-wide  
11 risk assessment that evaluates existing source operations.

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

14 (1) The obligations applicable to lead agencies under sections 2  
15 through 5 of this act are in addition to and do not limit or amend  
16 the obligations of covered agencies under chapter 70A.02 RCW.

17 (2) A lead agency may require a proponent of a proposed action to  
18 reimburse the agency for demonstrated costs to carry out an  
19 environmental justice impact statement carried out under sections 3  
20 through 6 of this act.

21 (3) By rule, the department of ecology may update the definition  
22 of pollution burdened community under this section by referencing a  
23 similar successor to the United States council on environmental  
24 quality's climate and economic justice screening tool developed or  
25 published after January 1, 2024.

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