

WAC 468-12-680 Administrative review. (1) The administrative review process described in this section shall apply only to actions of the department where the department publishes a notice of administrative review and where no public hearing pursuant to either chapter 47.52 or 43.21C RCW has been provided. The notice of administrative review shall describe the action to be taken and the environmental document upon which the action is based and prescribe the availability of this administrative review process to challenge the action and its environmental documents. The notice of administrative review shall be published pursuant to WAC 197-11-510. All actions of the department not subject to the administrative review process defined herein, shall be subject to applicable judicial review. The department may file a notice of action as provided for in RCW 43.21C.080 for such actions.

(2) Any person aggrieved by the department's determination to proceed with an action which is subject to administrative review as provided in subsection (1) of this section without preparation of an EIS or with preparation of an EIS alleged to be inadequate shall appeal such determination administratively before seeking judicial review thereof. Appeals of procedural and substantive determinations shall be combined (for example, an appeal of the adequacy of an EIS or the necessity of preparing an EIS must be combined with an appeal of the department's decision on the proposed action).

(3) For any action subject to the administrative review process, any determination by the department (a) that it will proceed with the action without preparation of an EIS, (b) that it will proceed with the action after preparation of an EIS, or (c) that the EIS prepared by the department is adequate, shall become final unless the aggrieved party serves on the project development engineer of the department a written request for administrative review within thirty days of the date of the filing of the department's notice of administrative review as authorized by RCW 43.21C.075. Upon receipt of such a request, the department shall afford an aggrieved party a hearing in accordance with chapter 34.04 RCW and chapter 468-10 WAC relating to contested cases. In reaching a decision based upon such a hearing, procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a party wishes to obtain judicial review of the administrative review decision concerning that party, the aggrieved party shall first submit a notice of intent to do so with the responsible official of the department within the time period for commencing a judicial appeal as provided in subsection (5) of this section.

(5) As provided in RCW 43.21C.075 and WAC 197-11-680, a party desiring judicial review of the administrative review decision concerning that party shall commence such appeal within (a) ninety days of the issuance of notice of administrative review by the department pursuant to RCW 43.21C.080, or (b) thirty days after service of the final decision of the department as provided in RCW 34.04.130, whichever is later.

[Statutory Authority: RCW 43.21C.120 and chapter 197-11 WAC. WSR 88-01-029 (Order 111), § 468-12-680, filed 12/10/87; WSR 84-19-030 (Order 90), § 468-12-680, filed 9/14/84.]