

RCW 43.21C.405 Nonproject environmental reviews of electrical transmission facilities.

(1) The energy facility site evaluation council shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures for electrical transmission facilities with a nominal voltage of 230kV or greater.

(2) The scope of a nonproject environmental review is limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the electrical transmission facilities with a nominal voltage of 230kV or greater. The energy facility site evaluation council may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for electrical transmission facilities with a nominal voltage of 230kV or greater.

(3) (a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The energy facility site evaluation council shall consult with other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The energy facility site evaluation council shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of electrical transmission facilities with a nominal voltage of 230kV or greater, the energy facility site evaluation council shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for electrical transmission facilities with a nominal voltage of 230kV or greater, based on the climatic and geophysical attributes conducive to or required for project development. The energy facility site evaluation council will provide opportunities for the engagement

of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the process.

(5) The energy facility site evaluation council must offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the nonproject review by early identification of tribal rights, interests, or resources, including tribal cultural resources, potentially affected by the project type and identifying solutions, when possible, to avoid, minimize, or mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit review.

(6) Final nonproject environmental review documents for the electrical transmission facilities with a nominal voltage of 230kV or greater, where applicable, must include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts and areas where impacts are avoided or capable of being minimized or mitigated, creating a tool that may be used by project proponents, tribes, and government to inform decision making. Maps may not include confidential information, such as locations of sacred cultural sites or locations of populations of certain protected species.

(7) For transmission line projects utilizing an existing transmission right-of-way or that are located along a transportation corridor or transmission projects utilizing an existing transmission right-of-way, the reasonable alternatives analysis required under this section is limited to the proposed action and a no action alternative. [2023 c 229 § 6.]

Finding—Intent—2023 c 229: See note following RCW 19.280.030.