

Proposed Second Substitute House Bill 1216 (H-1449.2)

House Appropriations Committee

By Representative Fitzgibbon

Original Bill:

Concerning clean energy siting.

Proposed Second Substitute House Bill 1216 (H-1449.2) as compared to the Substitute House Bill 1216 (as recommended by the Environment and Energy Committee):

- Directs the Interagency Clean Energy Siting Coordinating Council to collaborate with federally recognized Indian tribes in creating the training for clean energy project developers that is focused on consultation and engagement processes with federally recognized Indian tribes.
- Directs the Interagency Clean Energy Siting Coordinating Council to determine priorities for nonproject environmental impact statements (EISs) to be funded by the Legislature after the nonproject EISs to be carried out by the Department of Ecology (Ecology) for wind, solar, and hydrogen energy development.
- Excludes hydroelectric generation associated with facilities that have been the subject of an state Clean Water Act enforcement action or settlement that resulted in a penalty or mitigation of at least \$100,000, from the clean energy projects eligible for designation as a clean energy project of statewide significance, participation in the fully coordinated permit process, and the State Environmental Policy Act (SEPA) process changes.
- Clarifies that the designation of a clean energy project as a project of statewide significance or for participation in the fully coordinated permit process does not relieve a responsible official designated under SEPA of any SEPA responsibilities.
- Specifies that certain information obtained from a federally recognized Indian tribe in the consultation process for nonproject EISs is exempt from public disclosure consistent with existing public records act exemptions.
- Specifies that maps developed as an outcome of nonproject EIS reviews for wind, solar, and hydrogen may not be used in place of surveys on specific parcels or in place of input of potentially affected federally recognized Indian tribes.
- Amends the limitations on county permits for wind and solar evaluation equipment to eliminate references to grading permits and site excavation and clearing, and to include references to existing statutory requirements governing actions that must be taken in the event that cultural resources are determined to be present during site investigation work.
- Specifies that the Washington State University Energy Program's process for pumped storage siting is to be for the identification of interests, information, and issues related to pumped storage, rather than to identify areas in which the siting of pumped storage is likely to result in the least amount of potential conflict.

Committee: House Appropriations Committee
Staff: Jacob Lipson (786-7196), Office of Program Research
Date: February 23, 2023
Draft: H-1449.2

1 AN ACT Relating to clean energy siting; amending RCW 44.39.010
2 and 44.39.012; adding new sections to chapter 43.21C RCW; adding a
3 new section to chapter 36.70B RCW; adding a new section to chapter
4 36.01 RCW; adding new chapters to Title 43 RCW; creating new
5 sections; prescribing penalties; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** STATEMENT OF LEGISLATIVE INTENT. (1) The
8 legislature finds that efficient and effective siting and permitting
9 of new clean energy projects throughout Washington is necessary to:
10 Fight climate change and achieve the state's greenhouse gas emission
11 limits; improve air quality; grow family-wage clean energy jobs and
12 innovative clean energy businesses that provide economic benefits
13 across the state; and make available secure domestic sources of the
14 clean energy products needed to transition off fossil fuels.

15 (2) The legislature intends to: Enable more efficient and
16 effective siting and permitting of clean energy projects with
17 policies and investments that protect the environment, overburdened
18 communities, and tribal rights, interests, and resources, including
19 cultural resources; bring benefits to the communities that host clean
20 energy projects; and facilitate the rapid transition to clean energy
21 that is required to avoid the worst impacts of climate change on

1 Washington's people and places. There is no single solution for
2 improved siting and permitting processes. Rather, a variety of
3 efforts and investments will help bring together state, local,
4 tribal, and federal governments, communities, workers, clean energy
5 project developers, and others to succeed in this essential task.

6 (3) Efficient and effective siting and permitting will benefit
7 from early and meaningful community and tribal engagement, and from
8 up-front planning including identification of areas of higher and
9 lower levels of impact, and nonproject environmental review that
10 identifies measures to avoid, minimize, and mitigate project impacts.

11 (4) Incorporating the principles and strategies identified in
12 subsections (1), (2), and (3) of this section, the legislature
13 intends to invest in, facilitate, and require better coordinated,
14 faster environmental review and permitting decisions by state and
15 local governments.

16 (5) Therefore, it is the intent of the legislature to support
17 efficient, effective siting and permitting of clean energy projects
18 through a variety of interventions, including:

19 (a) Establishing an interagency clean energy siting coordinating
20 council to improve siting and permitting of clean energy projects;

21 (b) Creating a designation for clean energy projects of statewide
22 significance;

23 (c) Creating a fully coordinated permit process for clean energy
24 projects;

25 (d) Improving processes for review of clean energy projects under
26 the state environmental policy act;

27 (e) Requiring preparation of separate nonproject environmental
28 impact statements for green electrolytic and renewable hydrogen
29 projects and colocated battery energy storage facilities, onshore
30 utility-scale wind energy projects and colocated battery energy
31 storage facilities, and for solar energy projects and colocated
32 battery energy storage facilities, with the goal of preparing these
33 nonproject reviews by June 30, 2025; and

34 (f) Requiring the Washington State University energy program to
35 complete by June 30, 2025, a least-conflict siting process for pumped
36 storage projects in Washington.

37 **PART 1**

38 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

1 NEW SECTION. **Sec. 101.** INTERAGENCY CLEAN ENERGY SITING
2 COORDINATING COUNCIL. (1) The interagency clean energy siting
3 coordinating council is created. The coordinating council is
4 cochaired by the department of commerce and the department of ecology
5 with participation from the following:

- 6 (a) The office of the governor;
- 7 (b) The energy facility site evaluation council;
- 8 (c) The department of fish and wildlife;
- 9 (d) The department of agriculture;
- 10 (e) The governor's office of Indian affairs;
- 11 (f) The department of archaeology and historic preservation;
- 12 (g) The department of natural resources;
- 13 (h) The department of transportation;
- 14 (i) The utilities and transportation commission;
- 15 (j) The governor's office for regulatory innovation and
16 assistance; and
- 17 (k) Other state and federal agencies invited by the department of
18 commerce and the department of ecology with key roles in siting clean
19 energy to participate on an ongoing or ad hoc basis.

20 (2) The department of commerce and department of ecology shall
21 assign staff in each agency to lead the coordinating council's work
22 and provide ongoing updates to the governor and appropriate
23 committees of the legislature, including those with jurisdiction over
24 the environment, energy, or economic development policy.

25 (3) For purposes of this section and section 102 of this act,
26 "coordinating council" means the interagency clean energy siting
27 coordinating council created in this section.

28 NEW SECTION. **Sec. 102.** INTERAGENCY CLEAN ENERGY SITING
29 COORDINATING COUNCIL DUTIES. (1) The responsibilities of the
30 coordinating council include, but are not limited to:

31 (a) Identifying actions to improve siting and permitting of clean
32 energy projects as defined in section 201 of this act, including
33 through review of the recommendations of the department of ecology
34 and department of commerce's 2022 *Low Carbon Energy Facility Siting*
35 *Improvement Report*, creating implementation plans and timelines, and
36 making recommendations for needed funding or policy changes;

37 (b) Tracking federal government efforts to improve clean energy
38 project siting and permitting, including potential federal funding
39 sources, and identifying state agency actions to improve coordination

1 across state, local, and federal processes or to pursue supportive
2 funding;

3 (c) Conducting outreach to parties with interests in clean energy
4 siting and permitting for ongoing input on how to improve state
5 agency processes and actions;

6 (d) Establishing work groups as needed to focus on specific
7 energy types such as solar, wind, battery storage, or emerging
8 technologies, or specific geographies for clean energy project
9 siting;

10 (e) The creation of advisory committees deemed necessary to
11 inform the development of items identified in (a) through (d) of this
12 subsection;

13 (f) Supporting the governor's office of Indian affairs in
14 creating and updating annually, or when requested by a federally
15 recognized Indian tribe, a list of contacts at federally recognized
16 Indian tribes, applicable tribal laws on consultation from federally
17 recognized Indian tribes, and tribal preferences regarding outreach
18 about clean energy project siting and permitting, such as outreach by
19 developers directly, by state government in the government-to-
20 government relationship, or both;

21 (g) Supporting the department of archaeology and historic
22 preservation, the governor's office of Indian affairs, the department
23 of commerce, and the energy facility site evaluation council in
24 developing and providing to clean energy project developers a
25 training on consultation and engagement processes for federally
26 recognized Indian tribes. The governor's office of Indian affairs
27 must collaborate with federally recognized Indian tribes in the
28 development of the training;

29 (h) Supporting the department of archaeology and historic
30 preservation in updating the statewide predictive archaeological
31 model to provide clean energy project developers information about
32 where archaeological resources are likely to be found and the
33 potential need for archaeological investigations; and

34 (i) Supporting and promptly providing information to the
35 department of ecology in support of the nonproject reviews required
36 under section 303 of this act.

37 (2) The coordinating council shall provide an annual report
38 beginning October 1, 2024, to the governor and the appropriate
39 committees of the legislature summarizing: Progress on efficient,
40 effective, and responsible siting and permitting of clean energy

1 projects; areas of additional work, including where clean energy
2 project siting and permitting outcomes are not broadly recognized as
3 efficient, effective, or responsible; resource needs; and any needed
4 policy changes to help achieve the deployment of clean energy
5 necessary to meet the state's statutory greenhouse gas emissions
6 limits, chapter 70A.45 RCW, and the clean energy transformation act
7 requirements, chapter 19.405 RCW, and to support achieving the state
8 energy strategy adopted by the department of commerce.

9 (3) The coordinating council shall:

10 (a) Advise the department of commerce in:

11 (i) Contracting with an external, independent third party to:

12 (A) Carry out an evaluation of state agency siting and permitting
13 processes for clean energy projects and related federal and state
14 regulatory requirements, including the energy facility site
15 evaluation council permitting process authorized in chapter 80.50
16 RCW;

17 (B) Identify successful models used in other states for the
18 siting and permitting of projects similar to clean energy projects,
19 including local and state government programs to prepare build ready
20 clean energy sites; and

21 (C) Develop recommendations for improving these processes,
22 including potential policy changes and funding, with the goal of more
23 efficient, effective siting of clean energy projects; and

24 (ii) Reporting on the evaluation and recommendations in (a)(i) of
25 this subsection to the governor and the legislature by July 1, 2024;

26 (b) Pursue development of a consolidated clean energy application
27 similar to the joint aquatic resources permit application for, at a
28 minimum, state permits needed for clean energy projects. The
29 department of ecology shall lead this effort and engage with federal
30 agencies and local governments to explore inclusion of federal and
31 local permit applications as part of the consolidated application.
32 The department may design a single consolidated application for
33 multiple clean energy project types, may design separate applications
34 for individual clean energy technologies, or may design an
35 application for related resources. The department of ecology shall
36 provide an update on its development of consolidated permit
37 applications for clean energy projects to the governor and
38 legislature by December 31, 2024. The consolidated permit application
39 process must be available, but not required, for clean energy
40 projects;

1 (c) Explore development of a consolidated permit for clean energy
2 projects. The department of ecology shall lead this effort and
3 explore options including a clean energy project permit that
4 consolidates department of ecology permits only, or that consolidates
5 permits from multiple state and local agencies. The permit structure
6 must identify criteria or conditions that must be met for projects to
7 use the consolidated permit. The department of ecology may analyze
8 criteria or conditions as part of a nonproject review under chapter
9 43.21C RCW. The department of ecology shall update the legislature on
10 its evaluation of consolidated permit options and make
11 recommendations by October 1, 2024; and

12 (d) Determine priorities for categories of clean energy projects
13 to be the focus of new nonproject environmental impact statements
14 under chapter 43.21C RCW for the legislature to fund subsequent to
15 the nonproject environmental impact statements specified in section
16 302 of this act.

17 PART 2

18 CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY 19 COORDINATED PERMITTING PROCESS

20 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
21 section apply throughout this chapter unless the context clearly
22 requires otherwise.

23 (1) "Alternative energy resource" has the same meaning as defined
24 in RCW 80.50.020.

25 (2) "Alternative jet fuel" means a fuel made from nonpetroleum
26 sources that can be blended and used with conventional petroleum jet
27 fuels without the need to modify aircraft engines and existing fuel
28 distribution infrastructure and that meets the greenhouse gas
29 emissions reduction requirements that apply to biomass-derived fuels
30 as defined in RCW 70A.65.010. "Alternative jet fuel" includes jet
31 fuels derived from coprocessed feedstocks at a conventional petroleum
32 refinery.

33 (3) "Applicant" means a person applying to the department of
34 commerce for designation of a development project as a clean energy
35 project of statewide significance under this chapter.

36 (4) (a) "Associated facilities" means storage, transmission,
37 handling, or other related and supporting facilities connecting a
38 clean energy project with the existing energy supply, processing, or

1 distribution system including, but not limited to, battery energy
2 storage communications, controls, mobilizing or maintenance
3 equipment, instrumentation, and other types of ancillary storage and
4 transmission equipment, off-line storage or venting required for
5 efficient operation or safety of the transmission system and
6 overhead, and surface or subsurface lines of physical access for the
7 inspection, maintenance, and safe operations of the transmission
8 facility and new transmission lines constructed to operate at nominal
9 voltages of at least 115,000 volts to connect a clean energy project
10 to the northwest power grid.

11 (b) Common carrier railroads or motor vehicles are not associated
12 facilities.

13 (5) "Clean energy product manufacturing facility" means a
14 facility or a project at any facility that exclusively or primarily
15 manufactures the following products or components primarily used by
16 such products:

17 (a) Vehicles, vessels, and other modes of transportation that
18 emit no exhaust gas from the onboard source of power, other than
19 water vapor;

20 (b) Charging and fueling infrastructure for electric, hydrogen,
21 or other types of vehicles that emit no exhaust gas from the onboard
22 source of power, other than water vapor;

23 (c) Renewable or green electrolytic hydrogen, including preparing
24 renewable or green electrolytic hydrogen for distribution as an
25 energy carrier or manufacturing feedstock, or converting it to a
26 green hydrogen carrier;

27 (d) Equipment and products used to produce energy from
28 alternative energy resources;

29 (e) Equipment and products used to produce nonemitting electric
30 generation as defined in RCW 19.405.020;

31 (f) Equipment and products used at storage facilities;

32 (g) Equipment and products used to improve energy efficiency; and

33 (h) Semiconductors or semiconductor materials as defined in RCW
34 82.04.2404.

35 (6) "Clean energy project" means the following facilities
36 together with their associated facilities:

37 (a) Clean energy product manufacturing facilities;

38 (b) Electrical transmission facilities;

1 (c) Facilities to produce nonemitting electric generation or
2 electric generation from renewable resources, as defined in RCW
3 19.405.020, except for:

4 (i) Hydroelectric generation that includes new diversions, new
5 impoundments, new bypass reaches, or the expansion of existing
6 reservoirs constructed after May 7, 2019, unless the diversions,
7 bypass reaches, or reservoir expansions are necessary for the
8 operation of a pumped storage facility that: (A) Does not conflict
9 with existing state or federal fish recovery plans; and (B) complies
10 with all local, state, and federal laws and regulations; and

11 (ii) Hydroelectric generation associated with facilities or
12 persons that have been the subject of an enforcement action, penalty
13 order, or settled any enforcement action or penalty order with any
14 agreement to pay a penalty or pay for or conduct mitigation under
15 chapter 90.48 RCW during the preceding 15 years that resulted in the
16 payment of a penalty of at least \$100,000 or conducting mitigation
17 with a value of at least \$100,000;

18 (d) Storage facilities;

19 (e) Facilities or projects at any facilities that exclusively or
20 primarily process biogenic feedstocks into biofuel as defined in RCW
21 80.50.020;

22 (f) Biomass energy facilities as defined in RCW 19.405.020; or

23 (g) Facilities or projects at any facilities that exclusively or
24 primarily process alternative jet fuel.

25 (7) "Electrical transmission facilities" has the same meaning as
26 defined in RCW 80.50.020, except excluding electrical transmission
27 facilities that primarily or solely serve facilities that generate
28 electricity from fossil fuels.

29 (8) "Fully coordinated permit process" means a comprehensive
30 coordinated permitting assistance approach supported by a written
31 agreement between the project proponent, the department of ecology,
32 and the participating agencies.

33 (9) "Fully coordinated project" means a clean energy project
34 subject to the fully coordinated permit process.

35 (10) "Green electrolytic hydrogen" has the same meaning as
36 defined in RCW 80.50.020.

37 (11) "Green hydrogen carrier" has the same meaning as defined in
38 RCW 80.50.020.

39 (12) "Overburdened community" has the same meaning as defined in
40 RCW 70A.02.010.

1 (13) "Permit" means any permit, license, certificate, use
2 authorization, or other form of governmental review or approval
3 required in order to construct, expand, or operate a project in the
4 state of Washington.

5 (14) "Permit agency" means any state or local agency authorized
6 by law to issue permits.

7 (15) "Project proponent" means a person, business, or any entity
8 applying for or seeking a permit or permits in the state of
9 Washington.

10 (16) "Reasonable costs" means direct and indirect expenses
11 incurred by the department of ecology, participating agencies, or
12 local governments in carrying out the coordinated permit process
13 established in this chapter, including the initial assessment,
14 environmental review, and permitting. "Reasonable costs" includes
15 work done by agency or local government staff or consultants hired by
16 agencies or local governments to carry out the work plan. "Reasonable
17 costs" may also include other costs agreed to between the applicant
18 and the department of ecology, participating agencies, or local
19 governments.

20 (17) "Renewable hydrogen" has the same meaning as defined in RCW
21 80.50.020.

22 (18) "Renewable natural gas" has the same meaning as defined in
23 RCW 80.50.020.

24 (19) "Renewable resource" has the same meaning as defined in RCW
25 80.50.020.

26 (20) "Storage facility" has the same meaning as defined in RCW
27 80.50.020.

28 NEW SECTION. **Sec. 202.** CLEAN ENERGY PROJECTS OF STATEWIDE
29 SIGNIFICANCE—APPLICATION PROCESS. (1) The department of commerce
30 shall develop an application for the designation of clean energy
31 projects as clean energy projects of statewide significance.

32 (2) An application to the department of commerce by an applicant
33 under this section must include:

34 (a) Information regarding the location of the project;

35 (b) Information sufficient to demonstrate that the project
36 qualifies as a clean energy project;

37 (c) An explanation of how the project is expected to contribute
38 to the state's achievement of the greenhouse gas emission limits in
39 chapter 70A.45 RCW and is consistent with the state energy strategy

1 adopted by the department of commerce, as well as any contribution
2 that the project is expected to make to other state regulatory
3 requirements for clean energy and greenhouse gas emissions, including
4 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
5 or 70A.540 RCW;

6 (d) An explanation of how the project is expected to contribute
7 to the state's economic development goals, including information
8 regarding the applicant's average employment in the state for the
9 prior year, estimated new employment related to the project,
10 estimated wages of employees related to the project, and estimated
11 time schedules for completion and operation;

12 (e) A plan for meaningful engagement and information sharing with
13 potentially affected federally recognized Indian tribes;

14 (f) A description of potential community benefits and impacts
15 from the project, a plan for meaningful community engagement in the
16 project development, and an explanation of how the applicant might
17 use a community benefit agreement or other legal document that
18 stipulates the benefits that the developer agrees to fund or furnish,
19 in exchange for community support of a project; and

20 (g) Other information required by the department of commerce.

21 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
22 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
23 of commerce, in consultation with natural resources agencies and
24 other state agencies identified as likely to have a role in siting or
25 permitting a project, must review applications received under section
26 202 of this act.

27 (b) The director of the department of commerce must determine
28 within 60 days whether to designate an applicant's project as a clean
29 energy project of statewide significance. The department of commerce
30 may pause its review of an application and the applicability of the
31 60-day determination time frame under this subsection to request
32 additional information from an applicant.

33 (2) The department of commerce may designate a clean energy
34 project of statewide significance taking into consideration:

35 (a) Whether the project qualifies as a clean energy project;

36 (b) Whether the project will: Contribute to achieving state
37 emission reduction limits under chapter 70A.45 RCW; be consistent
38 with the state energy strategy adopted by the department of commerce;
39 contribute to achieving other state requirements for clean energy and

1 greenhouse gas emissions reductions; and support the state's economic
2 development goals;

3 (c) Whether the level of applicant need for coordinated state
4 assistance, including for siting and permitting and the complexity of
5 the project, warrants the designation of a project;

6 (d) Whether the project is proposed for an area or for a clean
7 energy technology that has been reviewed through a nonproject
8 environmental review process, or least-conflict siting process
9 including, but not limited to, the processes identified in sections
10 303 and 306 of this act, and whether the project is consistent with
11 the recommendations of such processes;

12 (e) Whether the project is anticipated to have potential near-
13 term or long-term significant positive or adverse impacts on
14 environmental and public health, including impacts to:

15 (i) State or federal endangered species act listed species in
16 Washington;

17 (ii) Overburdened communities; and

18 (iii) Rights, interests, and resources, including tribal cultural
19 resources, of potentially affected federally recognized Indian
20 tribes; and

21 (f) Input received from potentially affected federally recognized
22 Indian tribes, which the department must solicit and acknowledge the
23 receipt of.

24 (3) In determining whether to approve an application, the
25 department of commerce must consider information contained in an
26 application under section 202 of this act demonstrating an
27 applicant's meaningful tribal outreach and engagement, engagement
28 with the department of archaeology and historic preservation, and
29 engagement with the governor's office of Indian affairs.

30 (4) (a) The department of commerce may designate an unlimited
31 number of projects of statewide significance that meet the criteria
32 of this section.

33 (b) An applicant whose application to the department of commerce
34 under this chapter is not successful is eligible to reapply.

35 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
36 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
37 permit process is established for clean energy projects that do not
38 apply to the energy facility site evaluation council under chapter

1 80.50 RCW. In support of the coordinated permitting process for clean
2 energy projects, the department of ecology must:

3 (1) Act as the central point of contact for the project proponent
4 for the coordinated permitting process for projects that do not apply
5 to the energy facility site evaluation council under chapter 80.50
6 RCW and communicate with the project proponent about defined issues;

7 (2) Conduct an initial assessment of the proposed project review
8 and permitting actions for coordination purposes as provided in
9 section 205 of this act;

10 (3) Ensure that the project proponent has been informed of all
11 the information needed to apply for the state and local permits that
12 are included in the coordinated permitting process;

13 (4) Facilitate communication between project proponents and
14 agency staff to promote timely permit decisions and promote adherence
15 to agreed schedules;

16 (5) Verify completion among participating agencies of
17 administrative review and permit procedures, such as providing public
18 notice;

19 (6) Assist in resolving any conflict or inconsistency among
20 permit requirements and conditions;

21 (7) Consult with potentially affected federally recognized Indian
22 tribes as provided in section 209 of this act in support of the
23 coordinated permitting process;

24 (8) Engage with potentially affected overburdened communities as
25 provided in section 209 of this act;

26 (9) Manage a fully coordinated permitting process; and

27 (10) Coordinate with local jurisdictions to assist with
28 fulfilling the requirements of chapter 36.70B RCW and other local
29 permitting processes.

30 NEW SECTION. **Sec. 205.** CLEAN ENERGY COORDINATED PERMITTING
31 PROCESS INITIAL ASSESSMENT. (1) Upon the request of a proponent of a
32 clean energy project, the department of ecology must conduct an
33 initial assessment to determine the level of coordination needed,
34 taking into consideration the complexity of the project and the
35 experience of those expected to be involved in the project
36 application and review process.

37 (2) The initial project assessment must consider the complexity,
38 size, and need for assistance of the project and must address as
39 appropriate:

- 1 (a) The expected type of environmental review;
- 2 (b) The state and local permits or approvals that are anticipated
3 to be required for the project;
- 4 (c) The permit application forms and other application
5 requirements of the participating permit agencies;
- 6 (d) The anticipated information needs and issues of concern of
7 each participating agency; and
- 8 (e) The anticipated time required for the environmental review
9 process under chapter 43.21C RCW and permit decisions by each
10 participating agency, including the estimated time required to
11 determine if the permit applications are complete, to conduct the
12 environmental review under chapter 43.21C RCW, and conduct permitting
13 processes for each participating agency. In determining the estimated
14 time required, full consideration must be given to achieving the
15 greatest possible efficiencies through any concurrent studies and any
16 consolidated applications, hearings, and comment periods.
- 17 (3) The outcome of the initial assessment must be documented in
18 writing, furnished to the project proponent, and be made available to
19 the public.
- 20 (4) The initial assessment must be completed within 60 days of
21 the clean energy project proponent's request to the department under
22 this section, unless information on the project is not complete.

23 NEW SECTION. **Sec. 206.** CLEAN ENERGY COORDINATED PERMITTING
24 PROCESS REQUIREMENTS AND PROCEDURES. (1) A project proponent may
25 submit a written request to the department of ecology pursuant to
26 section 208 of this act and a local government development agreement
27 to support local government actions pursuant to section 207 of this
28 act for participation in a fully coordinated permitting process. To
29 be eligible to participate in the fully coordinated permit process:

- 30 (a) The project proponent must:
- 31 (i) Enter into a cost-reimbursement agreement pursuant to section
32 208 of this act;
- 33 (ii) Provide sufficient information on the project and project
34 site to identify probable significant adverse environmental impacts;
- 35 (iii) Provide information on any voluntary mitigation measures;
36 and
- 37 (iv) Provide information on engagement actions taken by the
38 proponent with federally recognized Indian tribes, local government,
39 and overburdened communities; and

1 (b) The department of ecology must determine that the project
2 raises complex coordination, permit processing, or substantive permit
3 review issues.

4 (2) A project proponent who requests designation as a fully
5 coordinated project must provide the department of ecology with a
6 complete description of the project. The department of ecology may
7 request any information from the project proponent that is necessary
8 to make the designation under this section and may convene a meeting
9 of the likely participating permit agencies.

10 (3) For a fully coordinated permitting process, the department of
11 ecology must serve as the main point of contact for the project
12 proponent and participating agencies with regard to coordinating the
13 permitting process for the project as a whole. Each participating
14 permit agency must designate a single point of contact for
15 coordinating with the department of ecology. The department of
16 ecology must keep a schedule identifying required procedural steps in
17 the permitting process and highlighting substantive issues as
18 appropriate that must be resolved in order for the project to move
19 forward. In carrying out these responsibilities, the department of
20 ecology must:

21 (a) Conduct the duties for the coordinated permitting process as
22 described in section 205 of this act;

23 (b) (i) Reach out to tribal or federal jurisdictions responsible
24 for issuing a permit for the project and invite them to participate
25 in the coordinated permitting process or to receive periodic updates
26 of the project;

27 (ii) Reach out to local jurisdictions responsible for issuing a
28 permit for the project and inform them of their obligations under
29 section 207 of this act.

30 (4) Within 30 days, or longer with agreement of the project
31 proponent, of the date that the department of ecology determines a
32 project is eligible for the fully coordinated permitting process, the
33 department of ecology shall convene a work plan meeting with the
34 project proponent, local government, and the participating permit
35 agencies to develop a coordinated permitting process schedule. The
36 work plan meeting agenda may include any of the following:

37 (a) Review of the permits that are anticipated for the project;

38 (b) A review of the permit application forms and other
39 application requirements of the agencies that are participating in
40 the coordinated permitting process;

1 (c) An estimation of the timelines that will be used by each
2 participating permit agency to make permit decisions, including the
3 estimated time periods required to determine if the permit
4 applications are complete and to review or respond to each
5 application or submittal of new information. In the development of
6 this timeline, full attention must be given to achieving the maximum
7 efficiencies possible through concurrent studies and consolidated
8 applications, hearings, and comment periods; or

9 (d) An estimation of reasonable costs for the department of
10 ecology, participating agencies, and the county, city, or town in
11 which the project is proposed for environmental review and
12 permitting, based on known information about the project.

13 (5) Each participating agency and the lead agency under chapter
14 43.21C RCW must send at least one representative qualified to discuss
15 the applicability and timelines associated with all permits
16 administered by that agency or jurisdiction to the work plan meeting.
17 The department of ecology must notify any relevant federal agency or
18 potentially affected federally recognized Indian tribe of the date of
19 the meeting and invite them to participate in the process.

20 (6) Any accelerated time period for the consideration of a permit
21 application or for the completion of the environmental review process
22 under chapter 43.21C RCW must be consistent with any statute, rule,
23 or regulation, or adopted state policy, standard, or guideline that
24 requires the participation of other agencies, federally recognized
25 Indian tribes, or interested persons in the application process.

26 (7) Upon the completion of the work plan meeting under subsection
27 (4) of this section, the department of ecology must finalize the
28 coordinated permitting process schedule, share it in writing with the
29 project proponent, participating state agencies, lead agencies under
30 chapter 43.21C RCW, and cities and counties subject to an agreement
31 specified in section 207 of this act, and make the schedule available
32 to the public.

33 (8) As part of the coordinated permit process, the developer may
34 prepare a community benefit agreement or other similar document to
35 identify how to mitigate potential community impacts. The agreement
36 should include benefits in addition to jobs or tax revenues resulting
37 from the project. Approval of any benefit agreement or other legal
38 document stipulating the benefits that the developer agrees to fund
39 or furnish, in exchange for community support of the project, must be

1 made by the local government legislative authority of the county,
2 city, or town in which the project is proposed.

3 (9) If a lead agency under chapter 43.21C RCW, a permit agency,
4 or the project proponent foresees, at any time, that it will be
5 unable to meet the estimated timelines or other obligations under the
6 schedule agreement, it must notify the department of ecology of the
7 reasons for the delay and offer potential solutions or an amended
8 timeline. The department of ecology must notify the participating
9 agencies and the project proponent and, upon agreement of all
10 parties, adjust the schedule or, if necessary, schedule another work
11 plan meeting.

12 (10) The project proponent may withdraw from the coordinated
13 permitting process by submitting to the department of ecology a
14 written request that the process be terminated. Upon receipt of the
15 request, the department of ecology must notify each participating
16 agency that a coordinated permitting process is no longer applicable
17 to the project.

18 NEW SECTION. **Sec. 207.** CLEAN ENERGY COORDINATED PERMITTING
19 PROCESS—LOCAL JURISDICTION AGREEMENTS. (1)(a) Counties and cities
20 with clean energy projects that are determined to be eligible for the
21 fully coordinated permit process shall enter into an agreement with
22 the department of ecology or with the project proponents of clean
23 energy projects for expediting the completion of projects.

24 (b) For the purposes of this section, "expedite" means that a
25 county or city will develop and implement a method to accelerate the
26 process for permitting and environmental review. Expediting should
27 not disrupt or otherwise delay the permitting and environmental
28 review of other projects or require the county or city to incur
29 additional costs that are not compensated.

30 (2) Agreements required by this section must include requirements
31 that the county or city coordinate with the department of ecology and
32 conduct environmental review and permitting to align with the work
33 plan described in section 206(4) of this act and:

34 (a) Expedite permit processing for the design and construction of
35 the project;

36 (b) Expedite environmental review processing;

37 (c) Expedite processing of requests for street, right-of-way, or
38 easement vacations necessary for the construction of the project;

1 (d) Develop and follow a plan for consultation with potentially
2 affected federally recognized Indian tribes; and

3 (e) Carry out such other actions identified by the department of
4 ecology as needed for the fully coordinated permitting process.

5 NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING
6 PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated
7 permitting process, a project proponent must enter into a cost-
8 reimbursement agreement with the department of ecology in accordance
9 with RCW 43.21A.690. The cost-reimbursement agreement is to recover
10 reasonable costs incurred by the department of ecology and
11 participating agencies in carrying out the coordinated permitting
12 process.

13 (2) The cost-reimbursement agreement may include deliverables and
14 schedules for invoicing and reimbursement.

15 (3) For a fully coordinated permitting process, a project
16 proponent must enter into a development agreement with the county,
17 city, or town in which the project is proposed, in accordance with
18 the authorization and requirements in RCW 36.70B.170 through
19 36.70B.210. The development agreement must detail the obligations of
20 the local jurisdiction and the project applicant. It must also
21 include, but not be limited to, the process the county, city, or town
22 will implement for meeting its obligation to expedite the
23 application, other clarifications for project phasing, and an
24 estimate of reasonable costs.

25 (4) If a project proponent foresees, at any time, that it will be
26 unable to meet its obligations under the agreement, it must notify
27 the department of ecology and state the reasons, along with proposals
28 for resolution.

29 NEW SECTION. **Sec. 209.** CLEAN ENERGY COORDINATED PERMITTING
30 PROCESS—TRIBAL CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT.

31 (1)(a) The department of ecology must offer early, meaningful, and
32 individual consultation with any affected federally recognized Indian
33 tribe on designated clean energy projects participating in the
34 coordinated permitting process for the purpose of understanding
35 potential impacts to tribal rights, interests, and resources,
36 including tribal cultural resources, archaeological sites, sacred
37 sites, fisheries, or other rights and interests in tribal lands and
38 lands within which an Indian tribe or tribes possess rights reserved

1 or protected by federal treaty, statute, or executive order. The
2 consultation is independent of, and in addition to, any public
3 participation process required by state law, or by a state agency.
4 The goal of the consultation process is to support the coordinated
5 permitting process by early identification of tribal rights,
6 interests, and resources, including tribal cultural resources,
7 potentially affected by the project, and identifying solutions, when
8 possible, to avoid, minimize, or mitigate any adverse effects on
9 tribal rights, interests, or resources, including tribal cultural
10 resources, based on environmental or permit reviews.

11 (b) At the earliest possible date after the initiation of the
12 coordinated permitting process under this chapter, the department of
13 ecology shall engage in a preapplication process with all affected
14 federally recognized Indian tribes.

15 (i) The department of ecology must notify the department of
16 archaeology and historic preservation, the department of fish and
17 wildlife, and all affected federally recognized Indian tribes within
18 the project area. The notification must include geographical
19 location, detailed scope of the proposed project, preliminary
20 proposed project details available to federal, state, or local
21 governmental jurisdictions, and all publicly available materials.

22 (ii) The department of ecology must also offer to discuss the
23 project with the department of archaeology and historic preservation,
24 the department of fish and wildlife, and all affected federally
25 recognized Indian tribes within the project area. Discussions may
26 include the project's impact to tribal rights, interests, and
27 resources, including tribal cultural resources, archaeological sites,
28 sacred sites, fisheries, or other rights and interests in tribal
29 lands and lands within which a tribe or tribes possess rights
30 reserved or protected by federal treaty, statute, or executive order.

31 (iii) All affected federally recognized Indian tribes may submit
32 to the department of ecology a summary of tribal issues, questions,
33 concerns, or other statements regarding the project, which must
34 become part of the official files maintained by the department of
35 ecology for the coordinated permitting process. The summary does not
36 limit what issues affected federally recognized Indian tribes may
37 raise in the consultation process.

38 (iv) The notification and offer to initiate discussion must be
39 documented by the department of ecology and delivered to the
40 department of archaeology and historic preservation, the department

1 of fish and wildlife, and to the affected federally recognized Indian
2 tribe or tribes. If the discussions pursuant to (b)(ii) of this
3 subsection do not occur, the department of ecology must document the
4 reason why the discussion or discussions did not occur.

5 (v) Nothing in this section may be interpreted to require the
6 disclosure of information that is exempt from disclosure pursuant to
7 RCW 42.56.300 or federal law, including section 304 of the national
8 historic preservation act of 1966. Any information that is exempt
9 from disclosure pursuant to RCW 42.56.300 or federal law, including
10 section 304 of the national historic preservation act of 1966, shall
11 not become part of publicly available coordinated permitting process
12 files.

13 (2) The department of ecology must identify overburdened
14 communities, as defined in RCW 70A.02.010, which may be potentially
15 affected by clean energy projects participating in the coordinated
16 permitting process. The department of ecology must verify these
17 communities have been meaningfully engaged in the regulatory
18 processes in a timely manner by participating agencies and their
19 comments considered for determining potential impacts.

20 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
21 chapter:

22 (a) Prohibits an applicant, a project proponent, or a state
23 agency from entering into a nondisclosure agreement to protect
24 confidential business information, trade secrets, financial
25 information, or other proprietary information;

26 (b) Limits or affects other statutory provisions specific to any
27 state agency related to that agency's procedures and protocols
28 related to the identification, designation, or disclosure of
29 information identified as confidential business information, trade
30 secrets, financial information, or other proprietary information;

31 (c) Limits or affects the provisions of chapter 42.56 RCW as they
32 apply to information or nondisclosure agreements obtained by a state
33 agency under this chapter; or

34 (d) Relieves the responsible official under chapter 43.21C RCW
35 for an action of the official's responsibilities under that chapter.

36 (2) The decisions by the department of commerce to designate a
37 clean energy project of statewide significance must be made available
38 to the public. Regardless of any exemptions otherwise set forth in
39 RCW 42.56.270, publicly shared information must include the

1 designee's name, a brief description of the project, the intended
2 project location, a description of climate and economic development
3 benefits to the state and communities therein, a tribal engagement
4 plan, a community engagement plan, and a community benefit agreement
5 if applicable.

6 (3) The department of commerce may terminate a designation of a
7 clean energy project of statewide significance for reasons that
8 include, but are not limited to, failure to comply with requirements
9 of the designation or the emergence of new information that
10 significantly alters the department of commerce's assessment of the
11 applicant's application, project, or project proponent. The
12 department of commerce must notify the applicant, project proponent,
13 and the department of ecology of the termination in writing within 30
14 days.

15 (4) Nothing in this chapter affects the jurisdiction of the
16 energy facility site evaluation council under chapter 80.50 RCW.

17 (5) This chapter does not limit or abridge the powers and duties
18 granted to a participating permit agency under the law or laws that
19 authorizes or requires the agency to issue a permit for a project.
20 Each participating permit agency retains its authority to make all
21 decisions on all substantive matters with regard to the respective
22 component permit that is within its scope of its responsibility
23 including, but not limited to, the determination of permit
24 application completeness, permit approval or approval with
25 conditions, or permit denial.

26 PART 3

27 PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY 28 PROJECTS

29 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.21C
30 RCW to read as follows:

31 SEPA CLEAN ENERGY FACILITIES. (1) The definitions in this
32 subsection apply throughout this section unless the context clearly
33 requires otherwise.

34 (a) "Alternative energy resource" has the same meaning as defined
35 in RCW 80.50.020.

36 (b) "Alternative jet fuel" has the same meaning as defined in
37 section 201 of this act.

1 (c) "Associated facilities" has the same meaning as defined in
2 section 201 of this act.

3 (d) "Clean energy product manufacturing facility" has the same
4 meaning as defined in section 201 of this act.

5 (e) "Clean energy project" has the same meaning as defined in
6 section 201 of this act.

7 (f) "Closely related proposals" means proposals that:

8 (i) Cannot or will not proceed unless the other proposals, or
9 parts of proposals, are implemented simultaneously with them; or

10 (ii) Are interdependent parts of a larger proposal and depend on
11 the larger proposal as their justification or for their
12 implementation.

13 (g) "Green electrolytic hydrogen" has the same meaning as defined
14 in RCW 80.50.020.

15 (h) "Green hydrogen carrier" has the same meaning as defined in
16 RCW 80.50.020.

17 (i) "Renewable hydrogen" has the same meaning as defined in RCW
18 80.50.020.

19 (j) "Renewable natural gas" has the same meaning as defined in
20 RCW 80.50.020.

21 (k) "Renewable resource" has the same meaning as defined in RCW
22 80.50.020.

23 (l) "Storage facility" has the same meaning as defined in RCW
24 80.50.020.

25 (2)(a) After the submission of an environmental checklist and
26 prior to issuing a threshold determination that a clean energy
27 project proposal is likely to cause a probable significant adverse
28 environmental impact consistent with RCW 43.21C.033, the lead agency
29 must notify the project applicant and explain in writing the basis
30 for its anticipated determination of significance. Prior to issuing
31 the threshold determination of significance, the lead agency must
32 give the project applicant the option of withdrawing and revising its
33 application and the associated environmental checklist. The lead
34 agency shall make its threshold determination based upon the changed
35 or clarified application and associated environmental checklist. The
36 responsible official has no more than 30 days from the date of the
37 resubmission of a clarified or changed application to make a
38 threshold determination, unless the applicant makes material changes
39 that substantially modify the impact of the proposal, in which case
40 the responsible official must treat the resubmitted clarified or

1 changed application as new, and is subject to the timelines
2 established in RCW 43.21C.033.

3 (b) The notification required under (a) of this subsection is not
4 an official determination by the lead agency and is not subject to
5 appeal under this chapter.

6 (c) Nothing in this subsection amends the requirements of RCW
7 43.21C.033 as they apply to proposals that are not for clean energy
8 projects and nothing in this subsection precludes the lead agency
9 from allowing an applicant for a proposal that is not a clean energy
10 project to follow application processes similar to or the same as the
11 application processes identified in this subsection.

12 (3)(a) When an environmental impact statement is required, a lead
13 agency shall prepare a final environmental impact statement for clean
14 energy projects within 24 months of a threshold determination of a
15 probable significant, adverse environmental impact.

16 (b) A lead agency may work with clean energy project applicants
17 to set or extend a time limit longer than 24 months under (a) of this
18 subsection, provided the:

19 (i) Applicant agrees to a longer time limit; and

20 (ii) Responsible official for the lead agency maintains an
21 updated schedule available for public review.

22 (c) For all clean energy projects that require the preparation of
23 an environmental impact statement, the lead agency shall work
24 collaboratively with applicants and all agencies that will have
25 actions requiring review under this chapter to develop a schedule
26 that shall:

27 (i) Include a list of, and roles and responsibilities for, all
28 entities that have actions requiring review under this chapter for
29 the project;

30 (ii) Include a comprehensive schedule of dates by which review
31 under this chapter will be completed, all actions requiring review
32 under this chapter will be taken, and the public will have an
33 opportunity to participate;

34 (iii) Be completed within 60 days of issuance of a determination
35 of significance;

36 (iv) Be updated as needed, but no later than 30 days of missing a
37 date on the schedule; and

38 (v) Be available for public review on the state environmental
39 policy act register.

1 (d) A lead agency may fulfill its responsibilities under this
2 subsection with a coordinated project plan prepared pursuant to 42
3 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under
4 (c)(ii) of this subsection.

5 (e) A failure to comply with the requirements in this subsection
6 is not subject to appeal and does not provide a basis for the
7 invalidation of the review by an agency under this chapter. Nothing
8 in this subsection creates any civil liability for an agency or
9 creates a new cause of action against an agency.

10 (f) For clean energy projects, the provisions of this subsection
11 are in addition to the requirements of RCW 43.21C.0311.

12 (4) This subsection provides clarifications on the content of
13 review under this chapter specific to clean energy projects.

14 (a) In defining the proposal that is the subject of review under
15 this chapter, a lead agency may not combine the evaluation of a clean
16 energy project proposal with other proposals unless the:

17 (i) Proposals are closely related; or

18 (ii) Applicant agrees to combining the proposals' evaluation.

19 (b) An agency with authority to impose mitigation under RCW
20 43.21C.060 may require mitigation measures for clean energy projects
21 only to address the environmental impacts that are attributable to
22 and caused by a proposal.

23 NEW SECTION. **Sec. 302.** A new section is added to chapter 43.21C
24 RCW to read as follows:

25 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
26 ecology shall prepare nonproject environmental impact statements,
27 pursuant to RCW 43.21C.030, that assess and disclose the probable
28 significant adverse environmental impacts, and that identify related
29 mitigation measures, for each of the following categories of clean
30 energy projects, and colocated battery energy storage projects that
31 may be included in such projects:

32 (a) Green electrolytic or renewable hydrogen projects;

33 (b) Utility-scale solar energy projects, which will consider the
34 findings of the Washington State University least-conflict solar
35 siting process; and

36 (c) Onshore utility-scale wind energy projects.

37 (2) The scope of a nonproject environmental review shall be
38 limited to the probable, significant adverse environmental impacts in
39 geographic areas that are suitable for the applicable clean energy

1 type. The department of ecology may consider standard attributes for
2 likely development, proximity to existing transmission or
3 complementary facilities, and planned corridors for transmission
4 capacity construction, reconstruction, or enlargement. The nonproject
5 review is not required to evaluate geographic areas that lack the
6 characteristics necessary for the applicable clean energy project
7 type.

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

12 (i) Historic and cultural resources;

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

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

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

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

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

23 (vii) Military installations and operations.

24 (b) The nonproject environmental impact statements must identify
25 measures to avoid, minimize, and mitigate probable significant
26 adverse environmental impacts identified during the review. These
27 include measures to mitigate probable significant adverse
28 environmental impacts to elements of the environment as defined in
29 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
30 interests, and resources, including tribal cultural resources, as
31 identified in RCW 70A.65.305, and overburdened communities as defined
32 in RCW 70A.02.010. The department of ecology shall consult with other
33 agencies with expertise in identification and mitigation of probable,
34 significant adverse environmental impacts including, but not limited
35 to, the department of fish and wildlife. The department of ecology
36 shall further specify when probable, significant adverse
37 environmental impacts cannot be mitigated.

38 (4) In defining the scope of nonproject review of clean energy
39 projects, the department of ecology shall request input from
40 agencies, federally recognized Indian tribes, industry, stakeholders,

1 local governments, and the public to identify the geographic areas
2 suitable for the applicable clean energy project type, based on the
3 climatic and geophysical attributes conducive to or required for
4 project development. The department of ecology will provide
5 opportunities for the engagement of tribes, overburdened communities,
6 and stakeholders that self-identify an interest in participating in
7 the processes.

8 (5) The department of ecology will offer early and meaningful
9 consultation with any affected federally recognized Indian tribe on
10 the nonproject review under this section for the purpose of
11 understanding potential impacts to tribal rights and resources,
12 including tribal cultural resources, archaeological sites, sacred
13 sites, fisheries, or other rights and interests in tribal lands and
14 lands within which an Indian tribe or tribes possess rights reserved
15 or protected by federal treaty, statute, or executive order. Certain
16 information obtained by the department of ecology under this section
17 is exempt from disclosure consistent with RCW 42.56.300.

18 (6) Final nonproject environmental review documents for the clean
19 energy projects identified in subsection (1) of this section, where
20 applicable, shall include maps identifying probable, significant
21 adverse environmental impacts for the resources evaluated. Maps must
22 be prepared with the intention to illustrate probable, significant
23 impacts, creating a tool that may be used by project proponents,
24 tribes, and government to inform decision making. The maps may not be
25 used in the place of surveys on specific parcels of land or input of
26 a potentially affected federally recognized Indian tribe regarding
27 specific parcels.

28 (7) Following the completion of a nonproject review subject to
29 this section, the interagency clean energy siting coordinating
30 council created in section 101 of this act must consider the findings
31 and make recommendations to the legislature and governor on potential
32 areas to designate as clean energy preferred zones for the clean
33 energy project technology analyzed, and any taxation, regulatory,
34 environmental review, or other benefits that should accrue to
35 projects in such designated preferred zones.

36 (8) Nothing in this section prohibits or precludes projects from
37 being located outside areas designated as clean energy preferred
38 zones.

1 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.21C
2 RCW to read as follows:

3 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
4 A lead agency conducting a project-level environmental review under
5 this chapter of a clean energy project identified in section 302(1)
6 of this act must consider a nonproject environmental impact statement
7 prepared pursuant to section 302 of this act in order to identify and
8 mitigate project-level probable significant adverse environmental
9 impacts.

10 (2)(a) Project-level environmental review conducted pursuant to
11 this chapter of a clean energy project identified in section 302(1)
12 of this act must begin with review of the applicable nonproject
13 environmental impact statement prepared pursuant to section 302 of
14 this act. The review must address any probable significant adverse
15 environmental impacts associated with the proposal that were not
16 analyzed in the nonproject environmental impact statements prepared
17 pursuant to section 302 of this act. The review must identify any
18 mitigation measures specific to the project for probable significant
19 adverse environmental impacts.

20 (b) Lead agencies reviewing site-specific project proposals for
21 clean energy projects under this chapter shall use the nonproject
22 review described in this section through one of the following methods
23 and in accordance with WAC 197-11-600, as it existed as of January 1,
24 2023:

25 (i) Use of the nonproject review unchanged, in accordance with
26 RCW 43.21C.034, if the project does not cause any probable
27 significant adverse environmental impact not identified in the
28 nonproject review;

29 (ii) Preparation of an addendum;

30 (iii) Incorporation by reference; or

31 (iv) Preparation of a supplemental environmental impact
32 statement.

33 (3) Clean energy project proposals following the recommendations
34 developed in the nonproject environment review completed pursuant to
35 section 302 of this act must be considered to have mitigated the
36 probable significant adverse project-specific environmental impacts
37 under this chapter for which recommendations were specifically
38 developed unless the project-specific environmental review identifies
39 project-level probable significant adverse environmental impacts not
40 addressed in the nonproject environmental review.

1 NEW SECTION. **Sec. 304.** A new section is added to chapter 36.70B
2 RCW to read as follows:

3 PROHIBITION ON DEMONSTRATION OF NEED. During project review of a
4 project to construct or improve facilities for the generation,
5 transmission, or distribution of electricity, a local government may
6 not require a project applicant to demonstrate the necessity or
7 utility of the project other than to require, as part of a completed
8 application under RCW 36.70B.070(2), submission of any publicly
9 available documentation required by the federal energy regulatory
10 commission or its delegees or the utilities and transportation
11 commission or its delegees, or from any other federal agency with
12 regulatory authority over the assessment of electric power
13 transmission and distribution needs as applicable.

14 NEW SECTION. **Sec. 305.** A new section is added to chapter 36.01
15 RCW to read as follows:

16 (1) In order to encourage greater development and use of
17 renewable energy, a county may not require an application for or the
18 acquisition of any permit for the installation of wind and solar
19 resource evaluation equipment, necessary for a renewable energy
20 project, design, and environmental planning.

21 (2) The activities identified in subsection (1) of this section
22 may be undertaken prior to issuance of discretionary land use
23 permits, including conditional use permits.

24 (3) This section does not apply to activities involving work in
25 water or fill of wetlands.

26 (4) Local critical areas ordinances and state permitting
27 requirements apply to activities in this section.

28 (5) This section applies only to a person who, prior to
29 commencing the activities specified in subsection (1) of this
30 section, has notified the department of archaeology and historic
31 preservation to obtain information on the probability or existence of
32 tribal cultural resources, archaeological sites, and sacred sites
33 within the potential site area. The department of archaeology and
34 historic preservation must provide information to the person carrying
35 out activities described in subsection (1) of this section regarding
36 the names of all potentially affected federally recognized Indian
37 tribes.

38 (6) If, at any point, cultural resources are determined to be
39 present, the site investigation work must cease pursuant to RCW

1 27.53.060, all necessary permits must be obtained, and the procedures
2 required under RCW 68.50.645 and 27.44.055 must be followed. Failure
3 to comply subjects a person to the appropriate penalties under RCW
4 27.44.040.

5 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
6 STORAGE SITING. (1) The Washington State University energy program
7 shall conduct a process to identify issues and interests related to
8 siting pumped storage projects in Washington state, to support
9 expanded capacity to store intermittently produced renewable energy,
10 such as from wind and solar, as part of the state's transition from
11 fossil fuel to 100 percent clean energy. The Washington State
12 University energy program may decide to include within the process's
13 scope the colocation of pumped storage with wind or solar energy
14 generation. The goal of the process is to identify and understand
15 issues and interests of various stakeholders and federally recognized
16 Indian tribes related to areas where pumped storage might be sited,
17 providing useful information to developers of potential projects, and
18 for subsequent environmental reviews under the state environmental
19 policy act.

20 (2) In carrying out this process, the Washington State University
21 energy program shall provide ample opportunities for the engagement
22 of federally recognized Indian tribes, local governments and special
23 purpose districts, land use and environmental organizations, and
24 additional stakeholders that self-identify as interested in
25 participating in the process.

26 (3) The Washington State University energy program must develop
27 and make available a map and associated GIS data layers, highlighting
28 areas identified through the process.

29 (4) Any information provided by tribes will help to inform the
30 map product, but the Washington State University energy program may
31 not include sensitive tribal information, as identified by federally
32 recognized Indian tribes, in the publicly available map or GIS data
33 layers. The information developed by this process and creation of the
34 map under this section does not supplant the need for project
35 developers to conduct early and individual outreach to federally
36 recognized Indian tribes and other affected communities. The
37 Washington State University energy program must take precautions to
38 prevent disclosure of any sensitive tribal information it receives
39 during the process, consistent with RCW 42.56.300.

1 (5) The pumped storage siting information process must be
2 completed by June 30, 2025.

3 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
4 stakeholders from rural communities, agriculture, natural resource
5 management and conservation, and forestry to gain a better
6 understanding of the benefits and impacts of anticipated changes in
7 the state's energy system, including the siting of facilities under
8 the jurisdiction of the energy facility site evaluation council, and
9 to identify risks and opportunities for rural communities. This
10 consultation must be conducted in compliance with the community
11 engagement plan developed by the department under chapter 70A.02 RCW
12 and with input from the environmental justice council, using the best
13 recommended practices available at the time. The department must
14 collect the best available information and learn from the lived
15 experiences of people in rural communities, with the objective of
16 improving state implementation of clean energy policies, including
17 the siting of energy facilities under the jurisdiction of the energy
18 facility site evaluation council, in ways that protect and improve
19 life in rural Washington. The department must consult with an array
20 of rural community members, including: Low-income community and
21 vulnerable population members or representatives; legislators; local
22 elected officials and staff; those involved with agriculture,
23 forestry, and natural resource management and conservation; renewable
24 energy project property owners; utilities; large energy consumers;
25 and others.

26 (b) The consultation must include stakeholder meetings with at
27 least one in eastern Washington and one in western Washington.

28 (c) The department's consultation with stakeholders may include,
29 but is not limited to, the following topics:

30 (i) Energy facility siting under the jurisdiction of the energy
31 facility site evaluation council, including placement of new
32 renewable energy resources, such as wind and solar generation, pumped
33 storage, and batteries or new nonemitting electric generation
34 resources, and their contribution to resource adequacy;

35 (ii) Production of hydrogen, biofuels, and feedstocks for clean
36 fuels;

37 (iii) Programs to reduce energy cost burdens on rural families
38 and farm operations;

1 (iv) Electric vehicles, farm and warehouse equipment, and
2 charging infrastructure suitable for rural use;

3 (v) Efforts to capture carbon or produce energy on agricultural,
4 forest, and other rural lands, including dual use solar projects that
5 ensure ongoing agricultural operations;

6 (vi) The use of wood products and forest practices that provide
7 low-carbon building materials and renewable fuel supplies; and

8 (vii) The development of clean manufacturing facilities, such as
9 solar panels, vehicles, and carbon fiber.

10 (2)(a) The department must complete a report on rural clean
11 energy and resilience that takes into consideration the consultation
12 with rural stakeholders as described in subsection (1) of this
13 section. The report must include recommendations for how policies,
14 projects, and investment programs, including energy facility siting
15 through the energy facility site evaluation council, can be developed
16 or amended to more equitably distribute costs and benefits to rural
17 communities. The report must include an assessment of how to improve
18 the total benefits to rural areas overall, as well as the equitable
19 distribution of benefits and costs within rural communities.

20 (b) The report must include a baseline understanding of rural
21 energy production and consumption, and collect data on their economic
22 impacts. Specifically, the report must examine:

23 (i) Direct, indirect, and induced jobs in construction and
24 operations;

25 (ii) Financial returns to property owners;

26 (iii) Effects on local tax revenues and public services, which
27 must include whether any school districts had a net loss of resources
28 from diminished local effort assistance payments required under
29 chapter 28A.500 RCW;

30 (iv) Effects on other rural land uses, such as agriculture,
31 natural resource management and conservation, and tourism;

32 (v) Geographic distribution of large energy projects previously
33 sited or forecast to be sited in Washington;

34 (vi) Potential forms of economic development assistance and
35 impact mitigation payments; and

36 (vii) Relevant information from the least-conflict priority solar
37 siting pilot project in the Columbia basin of eastern and central
38 Washington required under section 607, chapter 334, Laws of 2021.

39 (c) The report must include a forecast of what Washington's clean
40 energy transition will require for siting energy projects in rural

1 Washington. The department must gather and analyze the best available
2 information to produce forecast scenarios.

3 (d) By December 1, 2023, the department must submit an interim
4 report on rural clean energy and resilience to the joint committee on
5 energy supply, energy conservation, and energy resilience created in
6 RCW 44.39.010, the energy facility site evaluation council, and the
7 appropriate policy and fiscal committees of the legislature.

8 (e) By December 1, 2024, the department must submit a final
9 report on rural clean energy and resilience to the joint committee on
10 energy supply, energy conservation, and energy resilience created in
11 RCW 44.39.010, the energy facility site evaluation council, and the
12 appropriate policy and fiscal committees of the legislature.

13 (3) For the purposes of this section, "department" means the
14 department of commerce.

15 **Sec. 308.** RCW 44.39.010 and 2005 c 299 s 1 are each amended to
16 read as follows:

17 There is hereby created the joint committee on energy supply
18 (~~and~~), energy conservation, and energy resilience.

19 **Sec. 309.** RCW 44.39.012 and 2005 c 299 s 4 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Committee" means the joint committee on energy supply
24 (~~and~~), energy conservation, and energy resilience.

25 (2) "Conservation" means reduced energy consumption or energy
26 cost, or increased efficiency in the use of energy, and activities,
27 measures, or equipment designed to achieve such results.

28 NEW SECTION. **Sec. 310.** (1)(a) The committee shall review the
29 following issues:

30 (i) Inequities in where large alternative energy projects,
31 including projects under the jurisdiction of the energy facility site
32 evaluation council, have been sited in Washington;

33 (ii) Inequities in where large alternative energy projects,
34 including projects under the jurisdiction of the energy facility site
35 evaluation council, are forecast to be sited in Washington; and

36 (iii) Forms of economic development assistance, mitigation
37 payments, and viewshed impairment payments that counties not hosting

1 their per capita share of alternative energy resources should provide
2 to counties that host more than their per capita share.

3 (b) In support of its obligations under (a) of this subsection,
4 the committee must review the report produced by the department of
5 commerce under section 307 of this act.

6 (2) The committee must hold at least four meetings, at least two
7 of which must be in eastern Washington. The first meeting of the
8 committee must occur by September 30, 2023.

9 (3) Relevant state agencies, departments, and commissions,
10 including the energy facility site evaluation council, shall
11 cooperate with the committee and provide information as the chair
12 reasonably requests.

13 (4) The committee shall report its findings and any
14 recommendations to the energy facility site evaluation council and
15 the committees of the legislature with jurisdiction over environment
16 and energy laws by December 1, 2024. Recommendations of the committee
17 may be made by a simple majority of committee members. In the event
18 that the committee does not reach majority-supported recommendations,
19 the committee may report minority findings supported by at least two
20 members of the committee.

21 (5) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Alternative energy" means energy derived from an alternative
24 energy resource specified in RCW 80.50.020(1).

25 (b) "Committee" means the joint committee on energy supply,
26 energy conservation, and energy resilience created in RCW 44.39.010.

27 (6) This section expires June 30, 2025.

28 **PART 4**

29 **MISCELLANEOUS PROVISIONS**

30 NEW SECTION. **Sec. 401.** Sections 101 and 102 of this act
31 constitute a new chapter in Title 43 RCW.

32 NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act
33 constitute a new chapter in Title 43 RCW.

34 NEW SECTION. **Sec. 403.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- **END** ---