

2SHB 1216 - H AMD 178

By Representative Fitzgibbon

ADOPTED AS AMENDED 03/04/2023

1 Strike everything after the enacting clause and insert the
2 following:

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

11 (2) The legislature intends to: Enable more efficient and
12 effective siting and permitting of clean energy projects with
13 policies and investments that protect the environment, overburdened
14 communities, and tribal rights, interests, and resources, including
15 cultural resources; bring benefits to the communities that host clean
16 energy projects; and facilitate the rapid transition to clean energy
17 that is required to avoid the worst impacts of climate change on
18 Washington's people and places. There is no single solution for
19 improved siting and permitting processes. Rather, a variety of
20 efforts and investments will help bring together state, local,
21 tribal, and federal governments, communities, workers, clean energy
22 project developers, and others to succeed in this essential task.

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

28 (4) Incorporating the principles and strategies identified in
29 subsections (1), (2), and (3) of this section, the legislature
30 intends to invest in, facilitate, and require better coordinated,
31 faster environmental review and permitting decisions by state and
32 local governments.

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

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

6 (b) Creating a designation for clean energy projects of statewide
7 significance;

8 (c) Creating a fully coordinated permit process for clean energy
9 projects;

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

12 (e) Requiring preparation of separate nonproject environmental
13 impact statements for green electrolytic and renewable hydrogen
14 projects and colocated battery energy storage facilities, onshore
15 utility-scale wind energy projects and colocated battery energy
16 storage facilities, and for solar energy projects and colocated
17 battery energy storage facilities, with the goal of preparing these
18 nonproject reviews by June 30, 2025; and

19 (f) Requiring the Washington State University energy program to
20 complete by June 30, 2025, a siting information process for pumped
21 storage projects in Washington.

22 **PART 1**

23 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

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

29 (a) The office of the governor;

30 (b) The energy facility site evaluation council;

31 (c) The department of fish and wildlife;

32 (d) The department of agriculture;

33 (e) The governor's office of Indian affairs;

34 (f) The department of archaeology and historic preservation;

35 (g) The department of natural resources;

36 (h) The department of transportation;

37 (i) The utilities and transportation commission;

1 (j) The governor's office for regulatory innovation and
2 assistance; and

3 (k) Other state and federal agencies invited by the department of
4 commerce and the department of ecology with key roles in siting clean
5 energy to participate on an ongoing or ad hoc basis.

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

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

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

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

23 (b) Tracking federal government efforts to improve clean energy
24 project siting and permitting, including potential federal funding
25 sources, and identifying state agency actions to improve coordination
26 across state, local, and federal processes or to pursue supportive
27 funding;

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

31 (d) Establishing work groups as needed to focus on specific
32 energy types such as solar, wind, battery storage, or emerging
33 technologies, or specific geographies for clean energy project
34 siting;

35 (e) The creation of advisory committees deemed necessary to
36 inform the development of items identified in (a) through (d) of this
37 subsection;

38 (f) Supporting the governor's office of Indian affairs in
39 creating and updating annually, or when requested by a federally

1 recognized Indian tribe, a list of contacts at federally recognized
2 Indian tribes, applicable tribal laws on consultation from federally
3 recognized Indian tribes, and tribal preferences regarding outreach
4 about clean energy project siting and permitting, such as outreach by
5 developers directly, by state government in the government-to-
6 government relationship, or both;

7 (g) Supporting the department of archaeology and historic
8 preservation, the governor's office of Indian affairs, the department
9 of commerce, and the energy facility site evaluation council in
10 developing and providing to clean energy project developers a
11 training on consultation and engagement processes for federally
12 recognized Indian tribes. The governor's office of Indian affairs
13 must collaborate with federally recognized Indian tribes in the
14 development of the training;

15 (h) Supporting the department of archaeology and historic
16 preservation in updating the statewide predictive archaeological
17 model to provide clean energy project developers information about
18 where archaeological resources are likely to be found and the
19 potential need for archaeological investigations; and

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

23 (2) The coordinating council shall provide an annual report
24 beginning October 1, 2024, to the governor and the appropriate
25 committees of the legislature summarizing: Progress on efficient,
26 effective, and responsible siting and permitting of clean energy
27 projects; areas of additional work, including where clean energy
28 project siting and permitting outcomes are not broadly recognized as
29 efficient, effective, or responsible; resource needs; and any needed
30 policy changes to help achieve the deployment of clean energy
31 necessary to meet the state's statutory greenhouse gas emissions
32 limits, chapter 70A.45 RCW, and the clean energy transformation act
33 requirements, chapter 19.405 RCW, and to support achieving the state
34 energy strategy adopted by the department of commerce.

35 (3) The coordinating council shall:

36 (a) Advise the department of commerce in:

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

38 (A) Carry out an evaluation of state agency siting and permitting
39 processes for clean energy projects and related federal and state
40 regulatory requirements, including the energy facility site

1 evaluation council permitting process authorized in chapter 80.50
2 RCW;

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

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

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

12 (b) Pursue development of a consolidated clean energy application
13 similar to the joint aquatic resources permit application for, at a
14 minimum, state permits needed for clean energy projects. The
15 department of ecology shall lead this effort and engage with federal
16 agencies and local governments to explore inclusion of federal and
17 local permit applications as part of the consolidated application.
18 The department may design a single consolidated application for
19 multiple clean energy project types, may design separate applications
20 for individual clean energy technologies, or may design an
21 application for related resources. The department of ecology shall
22 provide an update on its development of consolidated permit
23 applications for clean energy projects to the governor and
24 legislature by December 31, 2024. The consolidated permit application
25 process must be available, but not required, for clean energy
26 projects;

27 (c) Explore development of a consolidated permit for clean energy
28 projects. The department of ecology shall lead this effort and, in
29 consultation with federally recognized Indian tribes, explore options
30 including a clean energy project permit that consolidates department
31 of ecology permits only, or that consolidates permits from multiple
32 state and local agencies. The permit structure must identify criteria
33 or conditions that must be met for projects to use the consolidated
34 permit. The department of ecology may analyze criteria or conditions
35 as part of a nonproject review under chapter 43.21C RCW. The
36 department of ecology shall update the legislature on its evaluation
37 of consolidated permit options and make recommendations by October 1,
38 2024; and

39 (d) Determine priorities for categories of clean energy projects
40 to be the focus of new nonproject environmental impact statements

1 under chapter 43.21C RCW for the legislature to fund subsequent to
2 the nonproject environmental impact statements specified in section
3 302 of this act.

4 **PART 2**

5 **CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY**
6 **COORDINATED PERMITTING PROCESS**

7 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

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

12 (2) "Alternative jet fuel" means a fuel that can be blended and
13 used with conventional petroleum jet fuels without the need to modify
14 aircraft engines and existing fuel distribution infrastructure and
15 that meets the greenhouse gas emissions reduction requirements that
16 apply to biomass-derived fuels as defined in RCW 70A.65.010.
17 "Alternative jet fuel" includes jet fuels derived from coprocessed
18 feedstocks at a conventional petroleum refinery.

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

22 (4) (a) "Associated facilities" means storage, transmission,
23 handling, or other related and supporting facilities connecting a
24 clean energy project with the existing energy supply, processing, or
25 distribution system including, but not limited to, battery energy
26 storage communications, controls, mobilizing or maintenance
27 equipment, instrumentation, and other types of ancillary storage and
28 transmission equipment, off-line storage or venting required for
29 efficient operation or safety of the transmission system and
30 overhead, and surface or subsurface lines of physical access for the
31 inspection, maintenance, and safe operations of the transmission
32 facility and new transmission lines constructed to operate at nominal
33 voltages of at least 115,000 volts to connect a clean energy project
34 to the northwest power grid.

35 (b) Common carrier railroads or motor vehicles are not associated
36 facilities.

37 (5) "Clean energy product manufacturing facility" means a
38 facility or a project at any facility that exclusively or primarily

1 manufactures the following products or components primarily used by
2 such products:

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

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

9 (c) Renewable or green electrolytic hydrogen, including preparing
10 renewable or green electrolytic hydrogen for distribution as an
11 energy carrier or manufacturing feedstock, or converting it to a
12 green hydrogen carrier;

13 (d) Equipment and products used to produce energy from
14 alternative energy resources;

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

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

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

19 (h) Semiconductors or semiconductor materials as defined in RCW
20 82.04.2404; and

21 (i) Projects or facility upgrades undertaken by emissions-
22 intensive trade-exposed industries as classified in RCW 70A.65.110
23 for which the facility can demonstrate expected reductions in overall
24 facility greenhouse gas emissions faster than the rate of decline of
25 free allowances allocated to emission-intensive trade-exposed
26 industries under chapter 70A.65 RCW and assist in meeting the
27 entity's compliance obligations under chapter 70A.65 RCW.

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

30 (a) Clean energy product manufacturing facilities;

31 (b) Electrical transmission facilities;

32 (c) Facilities to produce nonemitting electric generation or
33 electric generation from renewable resources, as defined in RCW
34 19.405.020, except for:

35 (i) Hydroelectric generation that includes new diversions, new
36 impoundments, new bypass reaches, or the expansion of existing
37 reservoirs constructed after May 7, 2019, unless the diversions,
38 bypass reaches, or reservoir expansions are necessary for the
39 operation of a pumped storage facility that: (A) Does not conflict

1 with existing state or federal fish recovery plans; and (B) complies
2 with all local, state, and federal laws and regulations; and

3 (ii) Hydroelectric generation associated with facilities or
4 persons that have been the subject of an enforcement action, penalty
5 order, or settled any enforcement action or penalty order with any
6 agreement to pay a penalty or pay for or conduct mitigation under
7 chapter 90.48 RCW during the preceding 15 years that resulted in the
8 payment of a penalty of at least \$100,000 or conducting mitigation
9 with a value of at least \$100,000;

10 (d) Storage facilities;

11 (e) Facilities or projects at any facilities that exclusively or
12 primarily process biogenic feedstocks into biofuel as defined in RCW
13 80.50.020;

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

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

17 (7) "Electrical transmission facilities" has the same meaning as
18 defined in RCW 80.50.020, except excluding electrical transmission
19 facilities that primarily or solely serve facilities that generate
20 electricity from fossil fuels.

21 (8) "Fully coordinated permit process" means a comprehensive
22 coordinated permitting assistance approach supported by a written
23 agreement between the project proponent, the department of ecology,
24 and the participating agencies.

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

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

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

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

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

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

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

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

14 (17) "Renewable hydrogen" has the same meaning as defined in RCW
15 80.50.020.

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

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

20 (20) "Storage facility" has the same meaning as defined in RCW
21 80.50.020.

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

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

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

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

31 (c) An explanation of how the project is expected to contribute
32 to the state's achievement of the greenhouse gas emission limits in
33 chapter 70A.45 RCW and is consistent with the state energy strategy
34 adopted by the department of commerce, as well as any contribution
35 that the project is expected to make to other state regulatory
36 requirements for clean energy and greenhouse gas emissions, including
37 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
38 or 70A.540 RCW;

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

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

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

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

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

22 (b) The director of the department of commerce must determine
23 within 60 days whether to designate an applicant's project as a clean
24 energy project of statewide significance. The department of commerce
25 may pause its review of an application and the applicability of the
26 60-day determination time frame under this subsection to request
27 additional information from an applicant.

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

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

31 (b) Whether the project will: Contribute to achieving state
32 emission reduction limits under chapter 70A.45 RCW; be consistent
33 with the state energy strategy adopted by the department of commerce;
34 contribute to achieving other state requirements for clean energy and
35 greenhouse gas emissions reductions; and support the state's economic
36 development goals;

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

1 (d) Whether the project is proposed for an area or for a clean
2 energy technology that has been reviewed through a nonproject
3 environmental review process, or least-conflict siting process
4 including, but not limited to, the processes identified in sections
5 303 and 306 of this act, and whether the project is consistent with
6 the recommendations of such processes;

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

10 (i) State or federal endangered species act listed species in
11 Washington;

12 (ii) Overburdened communities; and

13 (iii) Rights, interests, and resources, including tribal cultural
14 resources, of potentially affected federally recognized Indian
15 tribes; and

16 (f) Input received from potentially affected federally recognized
17 Indian tribes, which the department must solicit and acknowledge the
18 receipt of.

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

25 (4) (a) The department of commerce may designate an unlimited
26 number of projects of statewide significance that meet the criteria
27 of this section.

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

30 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
31 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
32 permit process is established for clean energy projects that do not
33 apply to the energy facility site evaluation council under chapter
34 80.50 RCW. In support of the coordinated permitting process for clean
35 energy projects, the department of ecology must:

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

- 1 (2) Conduct an initial assessment of the proposed project review
2 and permitting actions for coordination purposes as provided in
3 section 205 of this act;
- 4 (3) Ensure that the project proponent has been informed of all
5 the information needed to apply for the state and local permits that
6 are included in the coordinated permitting process;
- 7 (4) Facilitate communication between project proponents and
8 agency staff to promote timely permit decisions and promote adherence
9 to agreed schedules;
- 10 (5) Verify completion among participating agencies of
11 administrative review and permit procedures, such as providing public
12 notice;
- 13 (6) Assist in resolving any conflict or inconsistency among
14 permit requirements and conditions;
- 15 (7) Consult with potentially affected federally recognized Indian
16 tribes as provided in section 209 of this act in support of the
17 coordinated permitting process;
- 18 (8) Engage with potentially affected overburdened communities as
19 provided in section 209 of this act;
- 20 (9) Manage a fully coordinated permitting process; and
- 21 (10) Coordinate with local jurisdictions to assist with
22 fulfilling the requirements of chapter 36.70B RCW and other local
23 permitting processes.

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

31 (2) The initial project assessment must consider the complexity,
32 size, and need for assistance of the project and must address as
33 appropriate:

34 (a) The expected type of environmental review;

35 (b) The state and local permits or approvals that are anticipated
36 to be required for the project;

37 (c) The permit application forms and other application
38 requirements of the participating permit agencies;

1 (d) The anticipated information needs and issues of concern of
2 each participating agency; and

3 (e) The anticipated time required for the environmental review
4 process under chapter 43.21C RCW and permit decisions by each
5 participating agency, including the estimated time required to
6 determine if the permit applications are complete, to conduct the
7 environmental review under chapter 43.21C RCW, and conduct permitting
8 processes for each participating agency. In determining the estimated
9 time required, full consideration must be given to achieving the
10 greatest possible efficiencies through any concurrent studies and any
11 consolidated applications, hearings, and comment periods.

12 (3) The outcome of the initial assessment must be documented in
13 writing, furnished to the project proponent, and be made available to
14 the public.

15 (4) The initial assessment must be completed within 60 days of
16 the clean energy project proponent's request to the department under
17 this section, unless information on the project is not complete.

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

25 (a) The project proponent must:

26 (i) Enter into a cost-reimbursement agreement pursuant to section
27 208 of this act;

28 (ii) Provide sufficient information on the project and project
29 site to identify probable significant adverse environmental impacts;

30 (iii) Provide information on any voluntary mitigation measures;
31 and

32 (iv) Provide information on engagement actions taken by the
33 proponent with federally recognized Indian tribes, local government,
34 and overburdened communities; and

35 (b) The department of ecology must determine that the project
36 raises complex coordination, permit processing, or substantive permit
37 review issues.

38 (2) A project proponent who requests designation as a fully
39 coordinated project must provide the department of ecology with a

1 complete description of the project. The department of ecology may
2 request any information from the project proponent that is necessary
3 to make the designation under this section and may convene a meeting
4 of the likely participating permit agencies.

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

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

18 (b) (i) Reach out to tribal or federal jurisdictions responsible
19 for issuing a permit for the project and invite them to participate
20 in the coordinated permitting process or to receive periodic updates
21 of the project;

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

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

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

33 (b) A review of the permit application forms and other
34 application requirements of the agencies that are participating in
35 the coordinated permitting process;

36 (c) An estimation of the timelines that will be used by each
37 participating permit agency to make permit decisions, including the
38 estimated time periods required to determine if the permit
39 applications are complete and to review or respond to each
40 application or submittal of new information. In the development of

1 this timeline, full attention must be given to achieving the maximum
2 efficiencies possible through concurrent studies and consolidated
3 applications, hearings, and comment periods; or

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

8 (5) Each participating agency and the lead agency under chapter
9 43.21C RCW must send at least one representative qualified to discuss
10 the applicability and timelines associated with all permits
11 administered by that agency or jurisdiction to the work plan meeting.
12 The department of ecology must notify any relevant federal agency or
13 potentially affected federally recognized Indian tribe of the date of
14 the meeting and invite them to participate in the process.

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

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

28 (8) As part of the coordinated permit process, the developer may
29 prepare a community benefit agreement or other similar document to
30 identify how to mitigate potential community impacts or impacts to
31 tribal rights and resources, including cultural resources. The
32 agreement should include benefits in addition to jobs or tax revenues
33 resulting from the project. Approval of any benefit agreement or
34 other legal document stipulating the benefits that the developer
35 agrees to fund or furnish, in exchange for community or tribal
36 government support of the project, must be made by the local
37 government legislative authority of the county, city, or town in
38 which the project is proposed or by the relevant federally recognized
39 Indian tribal government.

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

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

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

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

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

32 (a) Expedite permit processing for the design and construction of
33 the project;

34 (b) Expedite environmental review processing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (iv) The notification and offer to initiate discussion must be
37 documented by the department of ecology and delivered to the
38 department of archaeology and historic preservation, the department
39 of fish and wildlife, and to the affected federally recognized Indian
40 tribe or tribes. If the discussions pursuant to (b)(ii) of this

1 subsection do not occur, the department of ecology must document the
2 reason why the discussion or discussions did not occur.

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

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

18 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
19 chapter:

20 (a) Prohibits an applicant, a project proponent, a state agency,
21 a local government, or a federally recognized Indian tribe from
22 entering into a nondisclosure agreement to protect confidential
23 business information, trade secrets, financial information, or other
24 proprietary information;

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

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

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

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

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

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

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

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

25 PART 3

26 PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY 27 PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) "Renewable hydrogen" has the same meaning as defined in RCW
16 80.50.020.

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

19 (k) "Renewable resource" has the same meaning as defined in RCW
20 80.50.020.

21 (l) "Storage facility" has the same meaning as defined in RCW
22 80.50.020.

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

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

4 (c) Nothing in this subsection amends the requirements of RCW
5 43.21C.033 as they apply to proposals that are not for clean energy
6 projects and nothing in this subsection precludes the lead agency
7 from allowing an applicant for a proposal that is not a clean energy
8 project to follow application processes similar to or the same as the
9 application processes identified in this subsection.

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

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

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

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

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

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

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

32 (iii) Be completed within 60 days of issuance of a determination
33 of significance;

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

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

38 (d) A lead agency may fulfill its responsibilities under this
39 subsection with a coordinated project plan prepared pursuant to 42

1 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under
2 (c)(ii) of this subsection.

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

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

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

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

15 (i) Proposals are closely related; or

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

17 (b) An agency with authority to impose mitigation under RCW
18 43.21C.060 may require mitigation measures for clean energy projects
19 only to address the environmental impacts that are attributable to
20 and caused by a proposal.

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

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

30 (a) Green electrolytic or renewable hydrogen projects;

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

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

35 (2) The scope of a nonproject environmental review shall be
36 limited to the probable, significant adverse environmental impacts in
37 geographic areas that are suitable for the applicable clean energy
38 type. The department of ecology may consider standard attributes for
39 likely development, proximity to existing transmission or

1 complementary facilities, and planned corridors for transmission
2 capacity construction, reconstruction, or enlargement. The nonproject
3 review is not required to evaluate geographic areas that lack the
4 characteristics necessary for the applicable clean energy project
5 type.

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

10 (i) Historic and cultural resources;

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

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

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

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

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

21 (vii) Military installations and operations.

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

37 (4) In defining the scope of nonproject review of clean energy
38 projects, the department of ecology shall request input from
39 agencies, federally recognized Indian tribes, industry, stakeholders,
40 local governments, and the public to identify the geographic areas

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

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

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

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

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

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

1 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)

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

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

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

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

27 (ii) Preparation of an addendum;

28 (iii) Incorporation by reference; or

29 (iv) Preparation of a supplemental environmental impact
30 statement.

31 (3) Clean energy project proposals following the recommendations
32 developed in the nonproject environment review completed pursuant to
33 section 302 of this act must be considered to have mitigated the
34 probable significant adverse project-specific environmental impacts
35 under this chapter for which recommendations were specifically
36 developed unless the project-specific environmental review identifies
37 project-level probable significant adverse environmental impacts not
38 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 A county may not prohibit the installation of wind and solar
17 resource evaluation equipment necessary for the design and
18 environmental planning of a renewable energy project.

19 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
20 STORAGE SITING. (1) The Washington State University energy program
21 shall conduct a process to identify issues and interests related to
22 siting pumped storage projects in Washington state, to support
23 expanded capacity to store intermittently produced renewable energy,
24 such as from wind and solar, as part of the state's transition from
25 fossil fuel to 100 percent clean energy. The Washington State
26 University energy program may decide to include within the process's
27 scope the colocation of pumped storage with wind or solar energy
28 generation. The goal of the process is to identify and understand
29 issues and interests of various stakeholders and federally recognized
30 Indian tribes related to areas where pumped storage might be sited,
31 providing useful information to developers of potential projects, and
32 for subsequent environmental reviews under the state environmental
33 policy act.

34 (2) In carrying out this process, the Washington State University
35 energy program shall provide ample opportunities for the engagement
36 of federally recognized Indian tribes, local governments and special
37 purpose districts, land use and environmental organizations, and

1 additional stakeholders that self-identify as interested in
2 participating in the process.

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

6 (4) Any information provided by tribes will help to inform the
7 map product, but the Washington State University energy program may
8 not include sensitive tribal information, as identified by federally
9 recognized Indian tribes, in the publicly available map or GIS data
10 layers. The information developed by this process and creation of the
11 map under this section does not supplant the need for project
12 developers to conduct early and individual outreach to federally
13 recognized Indian tribes and other affected communities. The
14 Washington State University energy program must take precautions to
15 prevent disclosure of any sensitive tribal information it receives
16 during the process, consistent with RCW 42.56.300.

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

19 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
20 stakeholders from rural communities, agriculture, natural resource
21 management and conservation, and forestry to gain a better
22 understanding of the benefits and impacts of anticipated changes in
23 the state's energy system, including the siting of facilities under
24 the jurisdiction of the energy facility site evaluation council, and
25 to identify risks and opportunities for rural communities. This
26 consultation must be conducted in compliance with the community
27 engagement plan developed by the department under chapter 70A.02 RCW
28 and with input from the environmental justice council, using the best
29 recommended practices available at the time. The department must
30 collect the best available information and learn from the lived
31 experiences of people in rural communities, with the objective of
32 improving state implementation of clean energy policies, including
33 the siting of energy facilities under the jurisdiction of the energy
34 facility site evaluation council, in ways that protect and improve
35 life in rural Washington. The department must consult with an array
36 of rural community members, including: Low-income community and
37 vulnerable population members or representatives; legislators; local
38 elected officials and staff; those involved with agriculture,
39 forestry, and natural resource management and conservation; renewable

1 energy project property owners; utilities; large energy consumers;
2 and others.

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

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

7 (i) Energy facility siting under the jurisdiction of the energy
8 facility site evaluation council, including placement of new
9 renewable energy resources, such as wind and solar generation, pumped
10 storage, and batteries or new nonemitting electric generation
11 resources, and their contribution to resource adequacy;

12 (ii) Production of hydrogen, biofuels, and feedstocks for clean
13 fuels;

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

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

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

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

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

25 (2)(a) The department must complete a report on rural clean
26 energy and resilience that takes into consideration the consultation
27 with rural stakeholders as described in subsection (1) of this
28 section. The report must include recommendations for how policies,
29 projects, and investment programs, including energy facility siting
30 through the energy facility site evaluation council, can be developed
31 or amended to more equitably distribute costs and benefits to rural
32 communities. The report must include an assessment of how to improve
33 the total benefits to rural areas overall, as well as the equitable
34 distribution of benefits and costs within rural communities.

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

38 (i) Direct, indirect, and induced jobs in construction and
39 operations;

40 (ii) Financial returns to property owners;

1 (iii) Effects on local tax revenues and public services, which
2 must include whether any school districts had a net loss of resources
3 from diminished local effort assistance payments required under
4 chapter 28A.500 RCW and impacts to public safety, the 911 emergency
5 communications system, mental health, criminal justice, and rural
6 county roads;

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

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

11 (vi) Potential forms of economic development assistance and
12 impact mitigation payments; and

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

16 (c) The report must include a forecast of what Washington's clean
17 energy transition will require for siting energy projects in rural
18 Washington. The department must gather and analyze the best available
19 information to produce forecast scenarios.

20 (d) By December 1, 2024, the department must submit a final
21 report on rural clean energy and resilience to the joint committee on
22 energy supply, energy conservation, and energy resilience created in
23 RCW 44.39.010 and the appropriate policy and fiscal committees of the
24 legislature.

25 (3) For the purposes of this section, "department" means the
26 department of commerce.

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

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

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

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

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

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

4 NEW SECTION. **Sec. 310.** (1) The committee shall review the
5 report produced by the department of commerce under section 307 of
6 this act and consider any policy or budget recommendations to reduce
7 impacts and increase benefits of the clean energy transition for
8 rural communities, including mechanisms to support local tax revenues
9 and public services.

10 (2) The committee must hold at least two meetings, at least one
11 of which must be in eastern Washington. The first meeting of the
12 committee must occur by September 30, 2023.

13 (3) Relevant state agencies, departments, and commissions,
14 including the energy facility site evaluation council, shall
15 cooperate with the committee and provide information as the chair
16 reasonably requests.

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

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

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

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

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

32 **PART 4**

33 **MISCELLANEOUS PROVISIONS**

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

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

3 NEW SECTION. **Sec. 403.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

7 Correct the title.

EFFECT: Adds a requirement for the department of ecology to consult with federally recognized Indian tribes when exploring the development of a consolidated permit for clean energy projects and when conducting nonproject environmental impact statements. Removes a requirement that alternative jet fuel is made from nonpetroleum sources. Includes certain projects or facility upgrades undertaken by emissions-intensive trade-exposed industries to the definition of clean energy product manufacturing facility. Allows developers to document how to mitigate potential impacts to tribal rights and resources as part of a coordinated permit process and adds federally recognized Indian tribal governments to the entities that must approve any such document. Adds local governments and federally recognized Indian tribes to the entities that may not be prohibited from entering into a nondisclosure agreement. Removes requirements and multiple specifications related to directing a county to not require an application for the acquisition of any permit for the installation of wind and solar resource evaluation equipment, and instead directs counties to not prohibit the installation of such equipment.

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