

E2SHB 1216 - S COMM AMD

By Committee on Environment, Energy & Technology

NOT CONSIDERED 04/08/2023

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,

1 faster environmental review and permitting decisions by state and
2 local governments.

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

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

8 (b) Creating a designation for clean energy projects of statewide
9 significance;

10 (c) Creating a fully coordinated permit process for clean energy
11 projects;

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

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

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

24 **PART 1**

25 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

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

31 (a) The office of the governor;

32 (b) The energy facility site evaluation council;

33 (c) The department of fish and wildlife;

34 (d) The department of agriculture;

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

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

37 (g) The department of natural resources;

38 (h) The department of transportation;

1 (i) The utilities and transportation commission;

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

4 (k) Staff from the environmental justice council; and

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

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

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

16 NEW SECTION. **Sec. 102.** INTERAGENCY CLEAN ENERGY SITING

17 COORDINATING COUNCIL DUTIES. (1) The responsibilities of the
18 coordinating council include, but are not limited to:

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

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

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

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

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

1 (f) Supporting the governor's office of Indian affairs in
2 creating and updating annually, or when requested by a federally
3 recognized Indian tribe, a list of contacts at federally recognized
4 Indian tribes, applicable tribal laws on consultation from federally
5 recognized Indian tribes, and tribal preferences regarding outreach
6 about clean energy project siting and permitting, such as outreach by
7 developers directly, by state government in the government-to-
8 government relationship, or both;

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

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

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

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

39 (3) The coordinating council shall:

40 (a) Advise the department of commerce in:

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

2 (A) Carry out an evaluation of state agency siting and permitting
3 processes for clean energy projects and related federal and state
4 regulatory requirements, including the energy facility site
5 evaluation council permitting process authorized in chapter 80.50
6 RCW;

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

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

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

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

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

1 of consolidated permit options and make recommendations by October 1,
2 2024;

3 (d) Determine priorities for categories of clean energy projects
4 to be the focus of new nonproject environmental impact statements
5 under chapter 43.21C RCW for the legislature to fund subsequent to
6 the nonproject environmental impact statements specified in section
7 302 of this act; and

8 (e) Consider and provide recommendations to the legislature on
9 additional benefits that could be provided to projects designated as
10 clean energy projects of statewide significance under section 203 of
11 this act.

12 **PART 2**

13 **CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY**
14 **COORDINATED PERMITTING PROCESS**

15 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

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

20 (2) "Alternative jet fuel" means a fuel that can be blended and
21 used with conventional petroleum jet fuels without the need to modify
22 aircraft engines and existing fuel distribution infrastructure and
23 that meets the greenhouse gas emissions reduction requirements that
24 apply to biomass-derived fuels as defined in RCW 70A.65.010.
25 "Alternative jet fuel" includes jet fuels derived from coprocessed
26 feedstocks at a conventional petroleum refinery.

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

30 (4) (a) "Associated facilities" means storage, transmission,
31 handling, or other related and supporting facilities connecting a
32 clean energy project with the existing energy supply, processing, or
33 distribution system including, but not limited to, battery energy
34 storage communications, controls, mobilizing or maintenance
35 equipment, instrumentation, and other types of ancillary storage and
36 transmission equipment, off-line storage or venting required for
37 efficient operation or safety of the transmission system and
38 overhead, and surface or subsurface lines of physical access for the

1 inspection, maintenance, and safe operations of the transmission
2 facility and new transmission lines constructed to operate at nominal
3 voltages of at least 115,000 volts to connect a clean energy project
4 to the northwest power grid.

5 (b) Common carrier railroads or motor vehicles are not associated
6 facilities.

7 (5) "Clean energy product manufacturing facility" means a
8 facility or a project at any facility that exclusively or primarily
9 manufactures the following products or components primarily used by
10 such products:

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

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

17 (c) Renewable or green electrolytic hydrogen, including preparing
18 renewable or green electrolytic hydrogen for distribution as an
19 energy carrier or manufacturing feedstock, or converting it to a
20 green hydrogen carrier;

21 (d) Equipment and products used to produce energy from
22 alternative energy resources;

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

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

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

27 (h) Semiconductors or semiconductor materials as defined in RCW
28 82.04.2404.

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

31 (a) Clean energy product manufacturing facilities;

32 (b) Electrical transmission facilities;

33 (c) Facilities to produce nonemitting electric generation or
34 electric generation from renewable resources, as defined in RCW
35 19.405.020, except for:

36 (i) Hydroelectric generation that includes new diversions, new
37 impoundments, new bypass reaches, or the expansion of existing
38 reservoirs constructed after May 7, 2019, unless the diversions,
39 bypass reaches, or reservoir expansions are necessary for the
40 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;

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

17 (h) Projects or facility upgrades undertaken by emissions-
18 intensive trade-exposed industries as classified in RCW 70A.65.110
19 for which the facility can demonstrate expected reductions in overall
20 facility greenhouse gas emissions to align with the cap trajectory
21 under chapter 70A.65 RCW and to reduce criteria pollutants per RCW
22 70A.65.020.

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

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

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

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

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

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

39 (13) "Permit" means any permit, license, certificate, use
40 authorization, or other form of governmental review or approval

1 required in order to construct, expand, or operate a project in the
2 state of Washington.

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

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

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

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

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

22 (19) "Renewable resource" has the same meaning as defined in RCW
23 80.50.020.

24 (20) "Storage facility" has the same meaning as defined in RCW
25 80.50.020.

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

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

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

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

35 (c) An explanation of how the project is expected to contribute
36 to the state's achievement of the greenhouse gas emission limits in
37 chapter 70A.45 RCW and is consistent with the state energy strategy
38 adopted by the department of commerce, as well as any contribution
39 that the project is expected to make to other state regulatory

1 requirements for clean energy and greenhouse gas emissions, including
2 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
3 or 70A.540 RCW;

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

10 (e) A plan for engagement and information sharing with
11 potentially affected federally recognized Indian tribes;

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

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

19 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
20 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
21 of commerce, in consultation with natural resources agencies and
22 other state agencies identified as likely to have a role in siting or
23 permitting a project, must review applications received under section
24 202 of this act. Within 14 business days of receiving the
25 application, the department of commerce must mail or provide in
26 person a written determination that the application is complete, or
27 if the application is incomplete, an opportunity to meet with the
28 department of commerce to determine what is necessary to make the
29 application complete. Within seven business days after an applicant
30 has submitted additional information identified by the department of
31 commerce as being necessary for a complete application, the
32 department of commerce must notify the applicant whether the
33 application is complete or what additional information is necessary.

34 (b) When the application is complete, the director of the
35 department of commerce must determine within 60 business days whether
36 to designate an applicant's project as a clean energy project of
37 statewide significance.

38 (c) A determination of completeness does not preclude the
39 department of commerce from requesting additional information if new

1 information is required or substantial changes in the proposed
2 project occur.

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

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

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

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

15 (d) Whether the project is proposed for an area or for a clean
16 energy technology that has been reviewed through a nonproject
17 environmental review process, or least-conflict siting process
18 including, but not limited to, the processes identified in sections
19 303 and 306 of this act, and whether the project is consistent with
20 the recommendations of such processes;

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

24 (i) State or federal endangered species act listed species in
25 Washington;

26 (ii) Overburdened communities; and

27 (iii) Rights, interests, and resources, including tribal cultural
28 resources, of potentially affected federally recognized Indian
29 tribes; and

30 (f) Input received from potentially affected federally recognized
31 Indian tribes, which the department must solicit and acknowledge the
32 receipt of.

33 (3) In determining whether to approve an application, the
34 department of commerce must consider information contained in an
35 application under section 202 of this act demonstrating an
36 applicant's tribal outreach and engagement, engagement with the
37 department of archaeology and historic preservation, and engagement
38 with the governor's office of Indian affairs.

1 (4) (a) The department of commerce may designate an unlimited
2 number of projects of statewide significance that meet the criteria
3 of this section.

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

6 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
7 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
8 permit process is established for clean energy projects that do not
9 apply to the energy facility site evaluation council under chapter
10 80.50 RCW. In support of the coordinated permitting process for clean
11 energy projects, the department of ecology must:

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

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

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

22 (4) Facilitate communication between project proponents and
23 agency staff to promote timely permit decisions and promote adherence
24 to agreed schedules;

25 (5) Verify completion among participating agencies of
26 administrative review and permit procedures, such as providing public
27 notice;

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

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

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

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

36 (10) Coordinate with local jurisdictions to assist with
37 fulfilling the requirements of chapter 36.70B RCW and other local
38 permitting processes.

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

8 (2) The initial project assessment must consider the complexity,
9 size, and need for assistance of the project and must address as
10 appropriate:

11 (a) The expected type of environmental review;

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

14 (c) The permit application forms and other application
15 requirements of the participating permit agencies;

16 (d) The anticipated information needs and issues of concern of
17 each participating agency; and

18 (e) The anticipated time required for the environmental review
19 process under chapter 43.21C RCW and permit decisions by each
20 participating agency, including the estimated time required to
21 determine if the permit applications are complete, to conduct the
22 environmental review under chapter 43.21C RCW, and conduct permitting
23 processes for each participating agency. In determining the estimated
24 time required, full consideration must be given to achieving the
25 greatest possible efficiencies through any concurrent studies and any
26 consolidated applications, hearings, and comment periods.

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

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

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

1 (a) The project proponent must:
2 (i) Enter into a cost-reimbursement agreement pursuant to section
3 208 of this act;
4 (ii) Provide sufficient information on the project and project
5 site to identify probable significant adverse environmental impacts;
6 (iii) Provide information on any voluntary mitigation measures;
7 and
8 (iv) Provide information on engagement actions taken by the
9 proponent with federally recognized Indian tribes, local government,
10 and overburdened communities; and
11 (b) The department of ecology must determine that the project
12 raises complex coordination, permit processing, or substantive permit
13 review issues.
14 (2) A project proponent who requests designation as a fully
15 coordinated project must provide the department of ecology with a
16 complete description of the project. The department of ecology may
17 request any information from the project proponent that is necessary
18 to make the designation under this section and may convene a meeting
19 of the likely participating permit agencies.
20 (3) For a fully coordinated permitting process, the department of
21 ecology must serve as the main point of contact for the project
22 proponent and participating agencies with regard to coordinating the
23 permitting process for the project as a whole. Each participating
24 permit agency must designate a single point of contact for
25 coordinating with the department of ecology. The department of
26 ecology must keep a schedule identifying required procedural steps in
27 the permitting process and highlighting substantive issues as
28 appropriate that must be resolved in order for the project to move
29 forward. In carrying out these responsibilities, the department of
30 ecology must:
31 (a) Conduct the duties for the coordinated permitting process as
32 described in section 205 of this act;
33 (b) (i) Reach out to tribal or federal jurisdictions responsible
34 for issuing a permit for the project and invite them to participate
35 in the coordinated permitting process or to receive periodic updates
36 of the project;
37 (ii) Reach out to local jurisdictions responsible for issuing a
38 permit for the project and inform them of their obligations under
39 section 207 of this act.

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

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

9 (b) A review of the permit application forms and other
10 application requirements of the agencies that are participating in
11 the coordinated permitting process;

12 (c) An estimation of the timelines that will be used by each
13 participating permit agency to make permit decisions, including the
14 estimated time periods required to determine if the permit
15 applications are complete and to review or respond to each
16 application or submittal of new information. In the development of
17 this timeline, full attention must be given to achieving the maximum
18 efficiencies possible through concurrent studies and consolidated
19 applications, hearings, and comment periods; or

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

24 (5) Each participating agency and the lead agency under chapter
25 43.21C RCW must send at least one representative qualified to discuss
26 the applicability and timelines associated with all permits
27 administered by that agency or jurisdiction to the work plan meeting.
28 The department of ecology must notify any relevant federal agency or
29 potentially affected federally recognized Indian tribe of the date of
30 the meeting and invite them to participate in the process.

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

37 (7) Upon the completion of the work plan meeting under subsection
38 (4) of this section, the department of ecology must finalize the
39 coordinated permitting process schedule, share it in writing with the
40 project proponent, participating state agencies, lead agencies under

1 chapter 43.21C RCW, and cities and counties subject to an agreement
2 specified in section 207 of this act, and make the schedule available
3 to the public.

4 (8) As part of the coordinated permit process, the developer may
5 prepare a community benefit agreement or other similar document to
6 identify how to mitigate potential community impacts or impacts to
7 tribal rights and resources, including cultural resources. The
8 agreement should include benefits in addition to jobs or tax revenues
9 resulting from the project. Approval of any benefit agreement or
10 other legal document stipulating the benefits that the developer
11 agrees to fund or furnish, in exchange for community or tribal
12 government support of the project, must be made by the local
13 government legislative authority of the county, city, or town in
14 which the project is proposed or by the relevant federally recognized
15 Indian tribal government.

16 (9) If a lead agency under chapter 43.21C RCW, a permit agency,
17 or the project proponent foresees, at any time, that it will be
18 unable to meet the estimated timelines or other obligations under the
19 schedule agreement, it must notify the department of ecology of the
20 reasons for the delay and offer potential solutions or an amended
21 timeline. The department of ecology must notify the participating
22 agencies and the project proponent and, upon agreement of all
23 parties, adjust the schedule or, if necessary, schedule another work
24 plan meeting.

25 (10) The project proponent may withdraw from the coordinated
26 permitting process by submitting to the department of ecology a
27 written request that the process be terminated. Upon receipt of the
28 request, the department of ecology must notify each participating
29 agency that a coordinated permitting process is no longer applicable
30 to the project.

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

37 (b) For the purposes of this section, "expedite" means that a
38 county or city will develop and implement a method to accelerate the
39 process for permitting and environmental review. Expediting should

1 not disrupt or otherwise delay the permitting and environmental
2 review of other projects or require the county or city to incur
3 additional costs that are not compensated.

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

8 (a) Expedite permit processing for the design and construction of
9 the project;

10 (b) Expedite environmental review processing;

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

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

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

17 NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING
18 PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated
19 permitting process, a project proponent must enter into a cost-
20 reimbursement agreement with the department of ecology in accordance
21 with RCW 43.21A.690. The cost-reimbursement agreement is to recover
22 reasonable costs incurred by the department of ecology and
23 participating agencies in carrying out the coordinated permitting
24 process.

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

27 (3) For a fully coordinated permitting process, a project
28 proponent must enter into a development agreement with the county,
29 city, or town in which the project is proposed, in accordance with
30 the authorization and requirements in RCW 36.70B.170 through
31 36.70B.210. The development agreement must detail the obligations of
32 the local jurisdiction and the project applicant. It must also
33 include, but not be limited to, the process the county, city, or town
34 will implement for meeting its obligation to expedite the
35 application, other clarifications for project phasing, and an
36 estimate of reasonable costs.

37 (4) If a project proponent foresees, at any time, that it will be
38 unable to meet its obligations under the agreement, it must notify

1 the department of ecology and state the reasons, along with proposals
2 for resolution.

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

5 (1)(a) The department of ecology must offer early, meaningful, and
6 individual consultation with any affected federally recognized Indian
7 tribe on designated clean energy projects participating in the
8 coordinated permitting process for the purpose of understanding
9 potential impacts to tribal rights, interests, and resources,
10 including tribal cultural resources, archaeological sites, sacred
11 sites, fisheries, or other rights and interests in tribal lands and
12 lands within which an Indian tribe or tribes possess rights reserved
13 or protected by federal treaty, statute, or executive order. The
14 consultation is independent of, and in addition to, any public
15 participation process required by state law, or by a state agency.
16 The goal of the consultation process is to support the coordinated
17 permitting process by early identification of tribal rights,
18 interests, and resources, including tribal cultural resources,
19 potentially affected by the project, and identifying solutions, when
20 possible, to avoid, minimize, or mitigate any adverse effects on
21 tribal rights, interests, or resources, including tribal cultural
22 resources, based on environmental or permit reviews.

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

27 (i) The department of ecology must notify the department of
28 archaeology and historic preservation, the department of fish and
29 wildlife, and all affected federally recognized Indian tribes within
30 the project area. The notification must include geographical
31 location, detailed scope of the proposed project, preliminary
32 proposed project details available to federal, state, or local
33 governmental jurisdictions, and all publicly available materials.

34 (ii) The department of ecology must also offer to discuss the
35 project with the department of archaeology and historic preservation,
36 the department of fish and wildlife, and all affected federally
37 recognized Indian tribes within the project area. Discussions may
38 include the project's impact to tribal rights, interests, and
39 resources, including tribal cultural resources, archaeological sites,

1 sacred sites, fisheries, or other rights and interests in tribal
2 lands and lands within which a tribe or tribes possess rights
3 reserved or protected by federal treaty, statute, or executive order.

4 (iii) All affected federally recognized Indian tribes may submit
5 to the department of ecology a summary of tribal issues, questions,
6 concerns, or other statements regarding the project, which must
7 become part of the official files maintained by the department of
8 ecology for the coordinated permitting process. The summary does not
9 limit what issues affected federally recognized Indian tribes may
10 raise in the consultation process.

11 (iv) The notification and offer to initiate discussion must be
12 documented by the department of ecology and delivered to the
13 department of archaeology and historic preservation, the department
14 of fish and wildlife, and to the affected federally recognized Indian
15 tribe or tribes. If the discussions pursuant to (b)(ii) of this
16 subsection do not occur, the department of ecology must document the
17 reason why the discussion or discussions did not occur.

18 (v) Nothing in this section may be interpreted to require the
19 disclosure of information that is exempt from disclosure pursuant to
20 RCW 42.56.300 or federal law, including section 304 of the national
21 historic preservation act of 1966. Any information that is exempt
22 from disclosure pursuant to RCW 42.56.300 or federal law, including
23 section 304 of the national historic preservation act of 1966, shall
24 not become part of publicly available coordinated permitting process
25 files.

26 (2) The department of ecology must identify overburdened
27 communities, as defined in RCW 70A.02.010, which may be potentially
28 affected by clean energy projects participating in the coordinated
29 permitting process. The department of ecology must verify these
30 communities have been meaningfully engaged in the regulatory
31 processes in a timely manner by participating agencies and their
32 comments considered for determining potential impacts.

33 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
34 chapter:

35 (a) Prohibits an applicant, a project proponent, a state agency,
36 a local government, or a federally recognized Indian tribe from
37 entering into a nondisclosure agreement to protect confidential
38 business information, trade secrets, financial information, or other
39 proprietary information;

1 (b) Limits or affects other statutory provisions specific to any
2 state agency related to that agency's procedures and protocols
3 related to the identification, designation, or disclosure of
4 information identified as confidential business information, trade
5 secrets, financial information, or other proprietary information;

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

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

11 (2) The decisions by the department of commerce to designate a
12 clean energy project of statewide significance must be made available
13 to the public. Regardless of any exemptions otherwise set forth in
14 RCW 42.56.270, publicly shared information must include the
15 designee's name, a brief description of the project, the intended
16 project location, a description of climate and economic development
17 benefits to the state and communities therein, a tribal engagement
18 plan, a community engagement plan, and a community benefit agreement
19 if applicable.

20 (3) The department of commerce may terminate a designation of a
21 clean energy project of statewide significance for reasons that
22 include, but are not limited to, failure to comply with requirements
23 of the designation or the emergence of new information that
24 significantly alters the department of commerce's assessment of the
25 applicant's application, project, or project proponent. The
26 department of commerce must notify the applicant, project proponent,
27 and the department of ecology of the termination in writing within 30
28 days.

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

31 (5) This chapter does not limit or abridge the powers and duties
32 granted to a participating permit agency under the law or laws that
33 authorizes or requires the agency to issue a permit for a project.
34 Each participating permit agency retains its authority to make all
35 decisions on all substantive matters with regard to the respective
36 component permit that is within its scope of its responsibility
37 including, but not limited to, the determination of permit
38 application completeness, permit approval or approval with
39 conditions, or permit denial.

PART 3
PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY
PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (a) After the submission of an environmental checklist and prior to issuing a threshold determination that a clean energy project proposal is likely to cause a probable significant adverse

1 environmental impact consistent with RCW 43.21C.033, the lead agency
2 must notify the project applicant and explain in writing the basis
3 for its anticipated determination of significance. Prior to issuing
4 the threshold determination of significance, the lead agency must
5 give the project applicant the option of withdrawing and revising its
6 application and the associated environmental checklist. The lead
7 agency shall make its threshold determination based upon the changed
8 or clarified application and associated environmental checklist. The
9 responsible official has no more than 30 days from the date of the
10 resubmission of a clarified or changed application to make a
11 threshold determination, unless the applicant makes material changes
12 that substantially modify the impact of the proposal, in which case
13 the responsible official must treat the resubmitted clarified or
14 changed application as new, and is subject to the timelines
15 established in RCW 43.21C.033.

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

19 (c) Nothing in this subsection amends the requirements of RCW
20 43.21C.033 as they apply to proposals that are not for clean energy
21 projects and nothing in this subsection precludes the lead agency
22 from allowing an applicant for a proposal that is not a clean energy
23 project to follow application processes similar to or the same as the
24 application processes identified in this subsection.

25 (3) (a) When an environmental impact statement is required, a lead
26 agency shall prepare a final environmental impact statement for clean
27 energy projects within 24 months of a threshold determination of a
28 probable significant, adverse environmental impact.

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

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

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

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

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

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

8 (iii) Be completed within 60 days of issuance of a determination
9 of significance;

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

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

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

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

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

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

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

30 (i) Proposals are closely related; or

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

32 (b) An agency with authority to impose mitigation under RCW
33 43.21C.060 may require mitigation measures for clean energy projects
34 only to address the environmental impacts that are attributable to
35 and caused by a proposal.

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

38 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
39 ecology shall prepare nonproject environmental impact statements,

1 pursuant to RCW 43.21C.030, that assess and disclose the probable
2 significant adverse environmental impacts, and that identify related
3 mitigation measures, for each of the following categories of clean
4 energy projects, and colocated battery energy storage projects that
5 may be included in such projects:

6 (a) Green electrolytic or renewable hydrogen projects;

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

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

11 (2) The scope of a nonproject environmental review shall be
12 limited to the probable, significant adverse environmental impacts in
13 geographic areas that are suitable for the applicable clean energy
14 type. The department of ecology may consider standard attributes for
15 likely development, proximity to existing transmission or
16 complementary facilities, and planned corridors for transmission
17 capacity construction, reconstruction, or enlargement. The nonproject
18 review is not required to evaluate geographic areas that lack the
19 characteristics necessary for the applicable clean energy project
20 type.

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

25 (i) Historic and cultural resources;

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

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

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

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

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

36 (vii) Military installations and operations.

37 (b) The nonproject environmental impact statements must identify
38 measures to avoid, minimize, and mitigate probable significant
39 adverse environmental impacts identified during the review. These
40 include measures to mitigate probable significant adverse

1 environmental impacts to elements of the environment as defined in
2 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
3 interests, and resources, including tribal cultural resources, as
4 identified in RCW 70A.65.305, and overburdened communities as defined
5 in RCW 70A.02.010. The department of ecology shall consult with
6 federally recognized Indian tribes and other agencies with expertise
7 in identification and mitigation of probable, significant adverse
8 environmental impacts including, but not limited to, the department
9 of fish and wildlife. The department of ecology shall further specify
10 when probable, significant adverse environmental impacts cannot be
11 mitigated.

12 (4) In defining the scope of nonproject review of clean energy
13 projects, the department of ecology shall request input from
14 agencies, federally recognized Indian tribes, industry, stakeholders,
15 local governments, and the public to identify the geographic areas
16 suitable for the applicable clean energy project type, based on the
17 climatic and geophysical attributes conducive to or required for
18 project development. The department of ecology will provide
19 opportunities for the engagement of tribes, overburdened communities,
20 and stakeholders that self-identify an interest in participating in
21 the processes.

22 (5) The department of ecology will offer early and meaningful
23 consultation with any affected federally recognized Indian tribe on
24 the nonproject review under this section for the purpose of
25 understanding potential impacts to tribal rights and resources,
26 including tribal cultural resources, archaeological sites, sacred
27 sites, fisheries, or other rights and interests in tribal lands and
28 lands within which an Indian tribe or tribes possess rights reserved
29 or protected by federal treaty, statute, or executive order. Certain
30 information obtained by the department of ecology under this section
31 is exempt from disclosure consistent with RCW 42.56.300.

32 (6) Final nonproject environmental review documents for the clean
33 energy projects identified in subsection (1) of this section, where
34 applicable, shall include maps identifying probable, significant
35 adverse environmental impacts for the resources evaluated. Maps must
36 be prepared with the intention to illustrate probable, significant
37 impacts, creating a tool that may be used by project proponents,
38 tribes, and government to inform decision making. The maps may not be
39 used in the place of surveys on specific parcels of land or input of

1 a potentially affected federally recognized Indian tribe regarding
2 specific parcels.

3 (7) Following the completion of a nonproject review subject to
4 this section, the interagency clean energy siting coordinating
5 council created in section 101 of this act must consider the findings
6 and make recommendations to the legislature and governor on potential
7 areas to designate as clean energy preferred zones for the clean
8 energy project technology analyzed, and any taxation, regulatory,
9 environmental review, or other benefits that should accrue to
10 projects in such designated preferred zones.

11 (8) Nothing in this section prohibits or precludes projects from
12 being located outside areas designated as clean energy preferred
13 zones.

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

16 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
17 A lead agency conducting a project-level environmental review under
18 this chapter of a clean energy project identified in section 302(1)
19 of this act must consider a nonproject environmental impact statement
20 prepared pursuant to section 302 of this act in order to identify and
21 mitigate project-level probable significant adverse environmental
22 impacts.

23 (2)(a) Project-level environmental review conducted pursuant to
24 this chapter of a clean energy project identified in section 302(1)
25 of this act must begin with review of the applicable nonproject
26 environmental impact statement prepared pursuant to section 302 of
27 this act. The review must address any probable significant adverse
28 environmental impacts associated with the proposal that were not
29 analyzed in the nonproject environmental impact statements prepared
30 pursuant to section 302 of this act. The review must identify any
31 mitigation measures specific to the project for probable significant
32 adverse environmental impacts.

33 (b) Lead agencies reviewing site-specific project proposals for
34 clean energy projects under this chapter shall use the nonproject
35 review described in this section through one of the following methods
36 and in accordance with WAC 197-11-600, as it existed as of January 1,
37 2023:

38 (i) Use of the nonproject review unchanged, in accordance with
39 RCW 43.21C.034, if the project does not cause any probable

1 significant adverse environmental impact not identified in the
2 nonproject review;

3 (ii) Preparation of an addendum;

4 (iii) Incorporation by reference; or

5 (iv) Preparation of a supplemental environmental impact
6 statement.

7 (3) Clean energy project proposals following the recommendations
8 developed in the nonproject environment review completed pursuant to
9 section 302 of this act must be considered to have mitigated the
10 probable significant adverse project-specific environmental impacts
11 under this chapter for which recommendations were specifically
12 developed unless the project-specific environmental review identifies
13 project-level probable significant adverse environmental impacts not
14 addressed in the nonproject environmental review.

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

17 PROHIBITION ON DEMONSTRATION OF NEED. During project review of a
18 project to construct or improve facilities for the generation,
19 transmission, or distribution of electricity, a local government may
20 not require a project applicant to demonstrate the necessity or
21 utility of the project other than to require, as part of a completed
22 application under RCW 36.70B.070(2), submission of any publicly
23 available documentation required by the federal energy regulatory
24 commission or its delegees or the utilities and transportation
25 commission or its delegees, or from any other federal agency with
26 regulatory authority over the assessment of electric power
27 transmission and distribution needs as applicable.

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

30 A county may not prohibit the installation of wind and solar
31 resource evaluation equipment necessary for the design and
32 environmental planning of a renewable energy project.

33 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
34 STORAGE SITING. (1) The Washington State University energy program
35 shall conduct a process to identify issues and interests related to
36 siting pumped storage projects in Washington state, to support
37 expanded capacity to store intermittently produced renewable energy,

1 such as from wind and solar, as part of the state's transition from
2 fossil fuel to 100 percent clean energy. The Washington State
3 University energy program may decide to include within the process's
4 scope the colocation of pumped storage with wind or solar energy
5 generation. The goal of the process is to identify and understand
6 issues and interests of various stakeholders and federally recognized
7 Indian tribes related to areas where pumped storage might be sited,
8 providing useful information to developers of potential projects, and
9 for subsequent environmental reviews under the state environmental
10 policy act.

11 (2) In carrying out this process, the Washington State University
12 energy program shall provide ample opportunities for the engagement
13 of federally recognized Indian tribes, local governments and special
14 purpose districts, land use and environmental organizations, and
15 additional stakeholders that self-identify as interested in
16 participating in the process.

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

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

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

33 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
34 stakeholders from rural communities, agriculture, natural resource
35 management and conservation, and forestry to gain a better
36 understanding of the benefits and impacts of anticipated changes in
37 the state's energy system, including the siting of facilities under
38 the jurisdiction of the energy facility site evaluation council, and
39 to identify risks and opportunities for rural communities. This

1 consultation must be conducted in compliance with the community
2 engagement plan developed by the department under chapter 70A.02 RCW
3 and with input from the environmental justice council, using the best
4 recommended practices available at the time. The department must
5 collect the best available information and learn from the lived
6 experiences of people in rural communities, with the objective of
7 improving state implementation of clean energy policies, including
8 the siting of energy facilities under the jurisdiction of the energy
9 facility site evaluation council, in ways that protect and improve
10 life in rural Washington. The department must consult with an array
11 of rural community members, including: Low-income community and
12 vulnerable population members or representatives; legislators; local
13 elected officials and staff; those involved with agriculture,
14 forestry, and natural resource management and conservation; renewable
15 energy project property owners; utilities; large energy consumers;
16 and others.

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

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

21 (i) Energy facility siting under the jurisdiction of the energy
22 facility site evaluation council, including placement of new
23 renewable energy resources, such as wind and solar generation, pumped
24 storage, and batteries or new nonemitting electric generation
25 resources, and their contribution to resource adequacy;

26 (ii) Production of hydrogen, biofuels, and feedstocks for clean
27 fuels;

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

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

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

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

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

39 (2) (a) The department must complete a report on rural clean
40 energy and resilience that takes into consideration the consultation

1 with rural stakeholders as described in subsection (1) of this
2 section. The report must include recommendations for how policies,
3 projects, and investment programs, including energy facility siting
4 through the energy facility site evaluation council, can be developed
5 or amended to more equitably distribute costs and benefits to rural
6 communities. The report must include an assessment of how to improve
7 the total benefits to rural areas overall, as well as the equitable
8 distribution of benefits and costs within rural communities.

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

12 (i) Direct, indirect, and induced jobs in construction and
13 operations;

14 (ii) Financial returns to property owners;

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

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

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

25 (vi) Potential forms of economic development assistance and
26 impact mitigation payments; and

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

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

34 (d) By December 1, 2024, the department must submit a final
35 report on rural clean energy and resilience to the joint committee on
36 energy supply, energy conservation, and energy resilience created in
37 RCW 44.39.010 and the appropriate policy and fiscal committees of the
38 legislature.

39 (3) For the purposes of this section, "department" means the
40 department of commerce.

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

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

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

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

23 (3) Relevant state agencies, departments, and commissions,
24 including the energy facility site evaluation council, shall
25 cooperate with the committee and provide information as the chair
26 reasonably requests.

27 (4) The committee shall report its findings and any
28 recommendations to the energy facility site evaluation council and
29 the committees of the legislature with jurisdiction over environment
30 and energy laws by December 1, 2024. Recommendations of the committee
31 may be made by a simple majority of committee members. In the event
32 that the committee does not reach majority-supported recommendations,
33 the committee may report minority findings supported by at least two
34 members of the committee.

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

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

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

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

4 **PART 4**

5 **MISCELLANEOUS PROVISIONS**

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

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

10 NEW SECTION. **Sec. 403.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected."

E2SHB 1216 - S COMM AMD

By Committee on Environment, Energy & Technology

NOT CONSIDERED 04/08/2023

14 On page 1, line 1 of the title, after "siting;" strike the
15 remainder of the title and insert "amending RCW 44.39.010 and
16 44.39.012; adding new sections to chapter 43.21C RCW; adding a new
17 section to chapter 36.70B RCW; adding a new section to chapter 36.01
18 RCW; adding new chapters to Title 43 RCW; creating new sections;
19 prescribing penalties; and providing an expiration date."

EFFECT: Adds staff from the environmental justice council as participating members of the interagency coordinating council. Directs the council to make recommendations on future nonproject environmental impact statements for categories of clean energy projects as part of its annual report. Requires the council to consider and provide recommendations on additional benefits that could be provided to projects designated as clean energy projects of statewide significance (CEPSS). Removes projects or facility upgrades taken by emissions-intensive trade-exposed industries (EITE) that demonstrate reductions in facility greenhouse gas (GHG) emissions faster than the rate of decline of free allowances allocated to EITEs under the climate commitment act (CCA) from the definition of "clean energy product manufacturing facility" and adds projects or facility upgrades taken by EITEs for which the facility can demonstrate expected GHG emissions reductions to align with the cap trajectory

under the CCA and to reduce criteria pollutants to the definition of "clean energy project." Requires applications for a designation as a CEPSS to include a plan for engagement with federally recognized Indian tribes and community engagement, rather than a plan for meaningful engagement with federally recognized Indian tribes and meaningful community engagement. Directs the department of commerce to provide a written determination that an application for a CEPSS designation is complete within 14 business days of receiving the application, or if the application is incomplete, an opportunity to meet with commerce to determine what is necessary to make the application complete. Requires commerce to notify the applicant whether the application is complete or what additional information is necessary within seven business days after the applicant submits additional information. Provides that when an application is complete, the director of commerce must determine within 60 business days whether to designate a project as a CEPSS. Specifies that a determination of completeness does not preclude the department of commerce from requesting additional information if new information is required or substantial changes in the proposed project occur.

--- END ---