
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1216

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Doglio, Berry, Reed, Simmons, Macri, Fosse, and Pollet; by request of Office of the Governor)

READ FIRST TIME 02/24/23.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **PART 1**

38 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) The coordinating council shall:

10 (a) Advise the department of commerce in:

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

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

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

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

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

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

1 (c) Explore development of a consolidated permit for clean energy
2 projects. The department of ecology shall lead this effort and, in
3 consultation with federally recognized Indian tribes, explore options
4 including a clean energy project permit that consolidates department
5 of ecology permits only, or that consolidates permits from multiple
6 state and local agencies. The permit structure must identify criteria
7 or conditions that must be met for projects to use the consolidated
8 permit. The department of ecology may analyze criteria or conditions
9 as part of a nonproject review under chapter 43.21C RCW. The
10 department of ecology shall update the legislature on its evaluation
11 of consolidated permit options and make recommendations by October 1,
12 2024; and

13 (d) Determine priorities for categories of clean energy projects
14 to be the focus of new nonproject environmental impact statements
15 under chapter 43.21C RCW for the legislature to fund subsequent to
16 the nonproject environmental impact statements specified in section
17 302 of this act.

18 **PART 2**

19 **CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY**
20 **COORDINATED PERMITTING PROCESS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) Projects or facility upgrades undertaken by emissions-
36 intensive trade-exposed industries as classified in RCW 70A.65.110
37 for which the facility can demonstrate expected reductions in overall
38 facility greenhouse gas emissions faster than the rate of decline of
39 free allowances allocated to emission-intensive trade-exposed

1 industries under chapter 70A.65 RCW and assist in meeting compliance
2 obligations under chapter 70A.65 RCW.

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

5 (a) Clean energy product manufacturing facilities;

6 (b) Electrical transmission facilities;

7 (c) Facilities to produce nonemitting electric generation or
8 electric generation from renewable resources, as defined in RCW
9 19.405.020, except for:

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

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

24 (d) Storage facilities;

25 (e) Facilities or projects at any facilities that exclusively or
26 primarily process biogenic feedstocks into biofuel as defined in RCW
27 80.50.020;

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

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

31 (7) "Electrical transmission facilities" has the same meaning as
32 defined in RCW 80.50.020, except excluding electrical transmission
33 facilities that primarily or solely serve facilities that generate
34 electricity from fossil fuels.

35 (8) "Fully coordinated permit process" means a comprehensive
36 coordinated permitting assistance approach supported by a written
37 agreement between the project proponent, the department of ecology,
38 and the participating agencies.

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

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

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

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

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

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

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

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

26 (17) "Renewable hydrogen" has the same meaning as defined in RCW
27 80.50.020.

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

30 (19) "Renewable resource" has the same meaning as defined in RCW
31 80.50.020.

32 (20) "Storage facility" has the same meaning as defined in RCW
33 80.50.020.

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

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

- 1 (a) Information regarding the location of the project;
- 2 (b) Information sufficient to demonstrate that the project
3 qualifies as a clean energy project;
- 4 (c) An explanation of how the project is expected to contribute
5 to the state's achievement of the greenhouse gas emission limits in
6 chapter 70A.45 RCW and is consistent with the state energy strategy
7 adopted by the department of commerce, as well as any contribution
8 that the project is expected to make to other state regulatory
9 requirements for clean energy and greenhouse gas emissions, including
10 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
11 or 70A.540 RCW;
- 12 (d) An explanation of how the project is expected to contribute
13 to the state's economic development goals, including information
14 regarding the applicant's average employment in the state for the
15 prior year, estimated new employment related to the project,
16 estimated wages of employees related to the project, and estimated
17 time schedules for completion and operation;
- 18 (e) A plan for meaningful engagement and information sharing with
19 potentially affected federally recognized Indian tribes;
- 20 (f) A description of potential community benefits and impacts
21 from the project, a plan for meaningful community engagement in the
22 project development, and an explanation of how the applicant might
23 use a community benefit agreement or other legal document that
24 stipulates the benefits that the developer agrees to fund or furnish,
25 in exchange for community support of a project; and
- 26 (g) Other information required by the department of commerce.

27 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
28 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
29 of commerce, in consultation with natural resources agencies and
30 other state agencies identified as likely to have a role in siting or
31 permitting a project, must review applications received under section
32 202 of this act.

33 (b) The director of the department of commerce must determine
34 within 60 days whether to designate an applicant's project as a clean
35 energy project of statewide significance. The department of commerce
36 may pause its review of an application and the applicability of the
37 60-day determination time frame under this subsection to request
38 additional information from an applicant.

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

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

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

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

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

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

22 (i) State or federal endangered species act listed species in
23 Washington;

24 (ii) Overburdened communities; and

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

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

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

37 (4) (a) The department of commerce may designate an unlimited
38 number of projects of statewide significance that meet the criteria
39 of this section.

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

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

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

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

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

19 (4) Facilitate communication between project proponents and
20 agency staff to promote timely permit decisions and promote adherence
21 to agreed schedules;

22 (5) Verify completion among participating agencies of
23 administrative review and permit procedures, such as providing public
24 notice;

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

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

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

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

33 (10) Coordinate with local jurisdictions to assist with
34 fulfilling the requirements of chapter 36.70B RCW and other local
35 permitting processes.

36 NEW SECTION. **Sec. 205.** CLEAN ENERGY COORDINATED PERMITTING
37 PROCESS INITIAL ASSESSMENT. (1) Upon the request of a proponent of a
38 clean energy project, the department of ecology must conduct an

1 initial assessment to determine the level of coordination needed,
2 taking into consideration the complexity of the project and the
3 experience of those expected to be involved in the project
4 application and review process.

5 (2) The initial project assessment must consider the complexity,
6 size, and need for assistance of the project and must address as
7 appropriate:

8 (a) The expected type of environmental review;

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

11 (c) The permit application forms and other application
12 requirements of the participating permit agencies;

13 (d) The anticipated information needs and issues of concern of
14 each participating agency; and

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

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

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

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

37 (a) The project proponent must:

38 (i) Enter into a cost-reimbursement agreement pursuant to section
39 208 of this act;

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

3 (iii) Provide information on any voluntary mitigation measures;
4 and

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

8 (b) The department of ecology must determine that the project
9 raises complex coordination, permit processing, or substantive permit
10 review issues.

11 (2) A project proponent who requests designation as a fully
12 coordinated project must provide the department of ecology with a
13 complete description of the project. The department of ecology may
14 request any information from the project proponent that is necessary
15 to make the designation under this section and may convene a meeting
16 of the likely participating permit agencies.

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

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

30 (b) (i) Reach out to tribal or federal jurisdictions responsible
31 for issuing a permit for the project and invite them to participate
32 in the coordinated permitting process or to receive periodic updates
33 of the project;

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

37 (4) Within 30 days, or longer with agreement of the project
38 proponent, of the date that the department of ecology determines a
39 project is eligible for the fully coordinated permitting process, the
40 department of ecology shall convene a work plan meeting with the

1 project proponent, local government, and the participating permit
2 agencies to develop a coordinated permitting process schedule. The
3 work plan meeting agenda may include any of the following:

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

5 (b) A review of the permit application forms and other
6 application requirements of the agencies that are participating in
7 the coordinated permitting process;

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

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

20 (5) Each participating agency and the lead agency under chapter
21 43.21C RCW must send at least one representative qualified to discuss
22 the applicability and timelines associated with all permits
23 administered by that agency or jurisdiction to the work plan meeting.
24 The department of ecology must notify any relevant federal agency or
25 potentially affected federally recognized Indian tribe of the date of
26 the meeting and invite them to participate in the process.

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

33 (7) Upon the completion of the work plan meeting under subsection
34 (4) of this section, the department of ecology must finalize the
35 coordinated permitting process schedule, share it in writing with the
36 project proponent, participating state agencies, lead agencies under
37 chapter 43.21C RCW, and cities and counties subject to an agreement
38 specified in section 207 of this act, and make the schedule available
39 to the public.

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

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

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

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

34 (b) For the purposes of this section, "expedite" means that a
35 county or city will develop and implement a method to accelerate the
36 process for permitting and environmental review. Expediting should
37 not disrupt or otherwise delay the permitting and environmental
38 review of other projects or require the county or city to incur
39 additional costs that are not compensated.

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

5 (a) Expedite permit processing for the design and construction of
6 the project;

7 (b) Expedite environmental review processing;

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 209.** CLEAN ENERGY COORDINATED PERMITTING

2 PROCESS—TRIBAL CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT.

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

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

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

32 (ii) The department of ecology must also offer to discuss the
33 project with the department of archaeology and historic preservation,
34 the department of fish and wildlife, and all affected federally
35 recognized Indian tribes within the project area. Discussions may
36 include the project's impact to tribal rights, interests, and
37 resources, including tribal cultural resources, archaeological sites,
38 sacred sites, fisheries, or other rights and interests in tribal
39 lands and lands within which a tribe or tribes possess rights
40 reserved or protected by federal treaty, statute, or executive order.

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

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

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

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

30 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
31 chapter:

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

37 (b) Limits or affects other statutory provisions specific to any
38 state agency related to that agency's procedures and protocols
39 related to the identification, designation, or disclosure of

1 information identified as confidential business information, trade
2 secrets, financial information, or other proprietary information;

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

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

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

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

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

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

37 **PART 3**

38 **PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY**
39 **PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

26 (i) "Renewable hydrogen" has the same meaning as defined in RCW
27 80.50.020.

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

30 (k) "Renewable resource" has the same meaning as defined in RCW
31 80.50.020.

32 (l) "Storage facility" has the same meaning as defined in RCW
33 80.50.020.

34 (2)(a) After the submission of an environmental checklist and
35 prior to issuing a threshold determination that a clean energy
36 project proposal is likely to cause a probable significant adverse
37 environmental impact consistent with RCW 43.21C.033, the lead agency
38 must notify the project applicant and explain in writing the basis
39 for its anticipated determination of significance. Prior to issuing
40 the threshold determination of significance, the lead agency must

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

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

15 (c) Nothing in this subsection amends the requirements of RCW
16 43.21C.033 as they apply to proposals that are not for clean energy
17 projects and nothing in this subsection precludes the lead agency
18 from allowing an applicant for a proposal that is not a clean energy
19 project to follow application processes similar to or the same as the
20 application processes identified in this subsection.

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

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

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

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

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

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

39 (ii) Include a comprehensive schedule of dates by which review
40 under this chapter will be completed, all actions requiring review

1 under this chapter will be taken, and the public will have an
2 opportunity to participate;

3 (iii) Be completed within 60 days of issuance of a determination
4 of significance;

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

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

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

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

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

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

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

25 (i) Proposals are closely related; or

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

27 (b) An agency with authority to impose mitigation under RCW
28 43.21C.060 may require mitigation measures for clean energy projects
29 only to address the environmental impacts that are attributable to
30 and caused by a proposal.

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

33 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
34 ecology shall prepare nonproject environmental impact statements,
35 pursuant to RCW 43.21C.030, that assess and disclose the probable
36 significant adverse environmental impacts, and that identify related
37 mitigation measures, for each of the following categories of clean
38 energy projects, and colocated battery energy storage projects that
39 may be included in such projects:

1 (a) Green electrolytic or renewable hydrogen projects;

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

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

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

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

20 (i) Historic and cultural resources;

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

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

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

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

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

31 (vii) Military installations and operations.

32 (b) The nonproject environmental impact statements must identify
33 measures to avoid, minimize, and mitigate probable significant
34 adverse environmental impacts identified during the review. These
35 include measures to mitigate probable significant adverse
36 environmental impacts to elements of the environment as defined in
37 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
38 interests, and resources, including tribal cultural resources, as
39 identified in RCW 70A.65.305, and overburdened communities as defined
40 in RCW 70A.02.010. The department of ecology shall consult with

1 federally recognized Indian tribes and other agencies with expertise
2 in identification and mitigation of probable, significant adverse
3 environmental impacts including, but not limited to, the department
4 of fish and wildlife. The department of ecology shall further specify
5 when probable, significant adverse environmental impacts cannot be
6 mitigated.

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

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

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

37 (7) Following the completion of a nonproject review subject to
38 this section, the interagency clean energy siting coordinating
39 council created in section 101 of this act must consider the findings
40 and make recommendations to the legislature and governor on potential

1 areas to designate as clean energy preferred zones for the clean
2 energy project technology analyzed, and any taxation, regulatory,
3 environmental review, or other benefits that should accrue to
4 projects in such designated preferred zones.

5 (8) Nothing in this section prohibits or precludes projects from
6 being located outside areas designated as clean energy preferred
7 zones.

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

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

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

27 (b) Lead agencies reviewing site-specific project proposals for
28 clean energy projects under this chapter shall use the nonproject
29 review described in this section through one of the following methods
30 and in accordance with WAC 197-11-600, as it existed as of January 1,
31 2023:

32 (i) Use of the nonproject review unchanged, in accordance with
33 RCW 43.21C.034, if the project does not cause any probable
34 significant adverse environmental impact not identified in the
35 nonproject review;

36 (ii) Preparation of an addendum;

37 (iii) Incorporation by reference; or

38 (iv) Preparation of a supplemental environmental impact
39 statement.

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

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

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

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

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

27 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED
28 STORAGE SITING. (1) The Washington State University energy program
29 shall conduct a process to identify issues and interests related to
30 siting pumped storage projects in Washington state, to support
31 expanded capacity to store intermittently produced renewable energy,
32 such as from wind and solar, as part of the state's transition from
33 fossil fuel to 100 percent clean energy. The Washington State
34 University energy program may decide to include within the process's
35 scope the colocation of pumped storage with wind or solar energy
36 generation. The goal of the process is to identify and understand
37 issues and interests of various stakeholders and federally recognized

1 Indian tribes related to areas where pumped storage might be sited,
2 providing useful information to developers of potential projects, and
3 for subsequent environmental reviews under the state environmental
4 policy act.

5 (2) In carrying out this process, the Washington State University
6 energy program shall provide ample opportunities for the engagement
7 of federally recognized Indian tribes, local governments and special
8 purpose districts, land use and environmental organizations, and
9 additional stakeholders that self-identify as interested in
10 participating in the process.

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

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

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

27 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with
28 stakeholders from rural communities, agriculture, natural resource
29 management and conservation, and forestry to gain a better
30 understanding of the benefits and impacts of anticipated changes in
31 the state's energy system, including the siting of facilities under
32 the jurisdiction of the energy facility site evaluation council, and
33 to identify risks and opportunities for rural communities. This
34 consultation must be conducted in compliance with the community
35 engagement plan developed by the department under chapter 70A.02 RCW
36 and with input from the environmental justice council, using the best
37 recommended practices available at the time. The department must
38 collect the best available information and learn from the lived
39 experiences of people in rural communities, with the objective of

1 improving state implementation of clean energy policies, including
2 the siting of energy facilities under the jurisdiction of the energy
3 facility site evaluation council, in ways that protect and improve
4 life in rural Washington. The department must consult with an array
5 of rural community members, including: Low-income community and
6 vulnerable population members or representatives; legislators; local
7 elected officials and staff; those involved with agriculture,
8 forestry, and natural resource management and conservation; renewable
9 energy project property owners; utilities; large energy consumers;
10 and others.

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

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

15 (i) Energy facility siting under the jurisdiction of the energy
16 facility site evaluation council, including placement of new
17 renewable energy resources, such as wind and solar generation, pumped
18 storage, and batteries or new nonemitting electric generation
19 resources, and their contribution to resource adequacy;

20 (ii) Production of hydrogen, biofuels, and feedstocks for clean
21 fuels;

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

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

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

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

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

33 (2) (a) The department must complete a report on rural clean
34 energy and resilience that takes into consideration the consultation
35 with rural stakeholders as described in subsection (1) of this
36 section. The report must include recommendations for how policies,
37 projects, and investment programs, including energy facility siting
38 through the energy facility site evaluation council, can be developed
39 or amended to more equitably distribute costs and benefits to rural
40 communities. The report must include an assessment of how to improve

1 the total benefits to rural areas overall, as well as the equitable
2 distribution of benefits and costs within rural communities.

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

6 (i) Direct, indirect, and induced jobs in construction and
7 operations;

8 (ii) Financial returns to property owners;

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

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

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

19 (vi) Potential forms of economic development assistance and
20 impact mitigation payments; and

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

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

28 (d) By December 1, 2024, the department must submit a final
29 report on rural clean energy and resilience to the joint committee on
30 energy supply, energy conservation, and energy resilience created in
31 RCW 44.39.010 and the appropriate policy and fiscal committees of the
32 legislature.

33 (3) For the purposes of this section, "department" means the
34 department of commerce.

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

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

MISCELLANEOUS PROVISIONS

1

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

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

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

--- END ---