
SUBSTITUTE SENATE BILL 5380

State of Washington

68th Legislature

2023 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Nguyen, Billig, Boehnke, Cleveland, Frame, Keiser, Kuderer, Lias, Pedersen, Valdez, and C. Wilson)

READ FIRST TIME 02/13/23.

1 AN ACT Relating to clean energy siting; adding new sections to
2 chapter 43.21C RCW; adding a new section to chapter 36.70B RCW;
3 adding a new section to chapter 36.01 RCW; adding new chapters to
4 Title 43 RCW; and creating new sections.

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

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

14 (2) The legislature intends to: Enable more efficient and
15 effective siting and permitting of clean energy projects with
16 policies and investments that protect the environment, overburdened
17 communities, and tribal rights, interests, and resources, including
18 cultural resources; bring benefits to the communities that host clean
19 energy projects; and facilitate the rapid transition to clean energy
20 that is required to avoid the worst impacts of climate change on
21 Washington's people and places. There is no single solution for

1 improved siting and permitting processes. Rather, a variety of
2 efforts and investments will help bring together state, local,
3 tribal, and federal governments, communities, workers, clean energy
4 project developers, and others to succeed in this essential task.

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

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

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

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

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

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

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

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

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

36 **PART 1**

37 **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, and tribal preferences regarding outreach about clean
17 energy project siting and permitting, such as outreach by developers
18 directly, by state government in the government-to-government
19 relationship, or both;

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

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

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

34 (2) The coordinating council shall provide an annual report
35 beginning October 1, 2024, to the governor and the appropriate
36 committees of the legislature summarizing: Progress on efficient,
37 effective, and responsible siting and permitting of clean energy
38 projects; areas of additional work, including where clean energy
39 project siting and permitting outcomes are not broadly recognized as
40 efficient, effective, or responsible; resource needs; and any needed

1 policy changes to help achieve the deployment of clean energy
2 necessary to meet the state's statutory greenhouse gas emissions
3 limits, chapter 70A.45 RCW, and the clean energy transformation act
4 requirements, chapter 19.405 RCW, and to support achieving the state
5 energy strategy adopted by the department of commerce.

6 (3) The coordinating council shall:

7 (a) Advise the department of commerce in:

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

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

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

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

21 (ii) Reporting on the evaluation and recommendations in (a)(i) of
22 this subsection to the governor and the legislature by July 1, 2024.

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

38 (c) Explore development of a consolidated permit for clean energy
39 projects. The department of ecology shall lead this effort and
40 explore options including a clean energy project permit that

1 consolidates department of ecology permits only, or that consolidates
2 permits from multiple state and local agencies. The permit structure
3 must identify criteria or conditions that must be met for projects to
4 use the consolidated permit. The department of ecology may analyze
5 criteria or conditions as part of a nonproject review under chapter
6 43.21C RCW. The department of ecology shall update the legislature on
7 its evaluation of consolidated permit options and make
8 recommendations by October 1, 2024.

9 **PART 2**

10 **CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY**
11 **COORDINATED PERMITTING PROCESS**

12 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
13 section apply throughout this chapter unless the context clearly
14 requires otherwise.

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

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

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

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

1 voltages of at least 115,000 volts to connect a clean energy project
2 to the northwest power grid.

3 (b) Common carrier railroads or motor vehicles are not associated
4 facilities.

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

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

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

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

19 (d) Equipment and products used to produce energy from
20 alternative energy resources;

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

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

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

25 (h) Semiconductors or semiconductor materials as defined in RCW
26 82.04.2404.

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

29 (a) Clean energy product manufacturing facilities;

30 (b) Electrical transmission facilities;

31 (c) Facilities to produce nonemitting electric generation or
32 electric generation from renewable resources, as defined in RCW
33 19.405.020, except for hydroelectric generation that includes new
34 diversions, new impoundments, new bypass reaches, or the expansion of
35 existing reservoirs constructed after May 7, 2019, unless the
36 diversions, bypass reaches, or reservoir expansions are necessary for
37 the operation of a pumped storage facility that: (i) Does not
38 conflict with existing state or federal fish recovery plans; and (ii)
39 complies with all local, state, and federal laws and regulations;

40 (d) Storage facilities;

1 (e) Facilities or projects at any facilities that exclusively or
2 primarily process biogenic feedstocks into biofuel as defined in RCW
3 80.50.020;

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

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

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

11 (8) "Fully coordinated permit process" means a comprehensive
12 coordinated permitting assistance approach supported by a written
13 agreement between the project proponent, the department of ecology,
14 and the participating agencies.

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

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

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

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

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

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

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

32 (16) "Reasonable costs" means direct and indirect expenses
33 incurred by the department of ecology, participating agencies, or
34 local governments in carrying out the coordinated permit process
35 established in this chapter, including the initial assessment,
36 environmental review, and permitting. "Reasonable costs" includes
37 work done by agency or local government staff or consultants hired by
38 agencies or local governments to carry out the work plan. "Reasonable
39 costs" may also include other costs agreed to between the applicant

1 and the department of ecology, participating agencies, or local
2 governments.

3 (17) "Renewable hydrogen" has the same meaning as defined in RCW
4 80.50.020.

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

7 (19) "Renewable resource" has the same meaning as defined in RCW
8 80.50.020.

9 (20) "Storage facility" has the same meaning as defined in RCW
10 80.50.020.

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

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

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

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

20 (c) An explanation of how the project is expected to contribute
21 to the state's achievement of the greenhouse gas emission limits in
22 chapter 70A.45 RCW and is consistent with the state energy strategy
23 adopted by the department of commerce, as well as any contribution
24 that the project is expected to make to other state regulatory
25 requirements for clean energy and greenhouse gas emissions, including
26 the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535,
27 or 70A.540 RCW;

28 (d) An explanation of how the project is expected to contribute
29 to the state's economic development goals, including information
30 regarding the applicant's average employment in the state for the
31 prior year, estimated new employment related to the project,
32 estimated wages of employees related to the project, and estimated
33 time schedules for completion and operation;

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

36 (f) A description of potential community benefits and impacts
37 from the project, a plan for meaningful community engagement in the
38 project development, and an explanation of how the applicant might
39 use a community benefit agreement or other legal document that

1 stipulates the benefits that the developer agrees to fund or furnish,
2 in exchange for community support of a project; and

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

4 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
5 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
6 of commerce, in consultation with other state agencies identified as
7 likely to have a role in siting or permitting a project, must review
8 applications received under section 202 of this act.

9 (b) The director of the department of commerce must determine
10 within 60 days whether to designate an applicant's project as a clean
11 energy project of statewide significance. The department of commerce
12 may pause its review of an application and the applicability of the
13 60-day determination time frame under this subsection to request
14 additional information from an applicant.

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

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

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

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

27 (d) Whether the project is proposed for an area or for a clean
28 energy technology that has been reviewed through a nonproject
29 environmental review process, or least-conflict siting process
30 including, but not limited to, the processes identified in sections
31 303 and 306 of this act, and whether the project is consistent with
32 the recommendations of such processes;

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

36 (i) State or federal endangered species act listed species in
37 Washington;

38 (ii) Overburdened communities; and

1 (iii) Rights, interests, and resources, including tribal cultural
2 resources, of potentially affected federally recognized Indian
3 tribes; and

4 (f) Input received from potentially affected federally recognized
5 Indian tribes, which the department must solicit and acknowledge the
6 receipt of.

7 (3) In determining whether to approve an application, the
8 department of commerce must consider information contained in an
9 application under section 202 of this act demonstrating an
10 applicant's meaningful tribal outreach and engagement, engagement
11 with the department of archaeology and historic preservation, and
12 engagement with the governor's office of Indian affairs.

13 (4) (a) The department of commerce may designate an unlimited
14 number of projects of statewide significance that meet the criteria
15 of this section.

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

18 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING
19 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated
20 permit process is established for clean energy projects that do not
21 apply to the energy facility site evaluation council under chapter
22 80.50 RCW. In support of the coordinated permitting process for clean
23 energy projects, the department of ecology must:

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

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

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

34 (4) Facilitate communication between project proponents and
35 agency staff to promote timely permit decisions and promote adherence
36 to agreed schedules;

37 (5) Verify completion among participating agencies of
38 administrative review and permit procedures, such as providing public
39 notice;

- 1 (6) Assist in resolving any conflict or inconsistency among
2 permit requirements and conditions;
- 3 (7) Consult with potentially affected federally recognized Indian
4 tribes as provided in section 209 of this act in support of the
5 coordinated permitting process;
- 6 (8) Engage with potentially affected overburdened communities as
7 provided in section 209 of this act;
- 8 (9) Manage a fully coordinated permitting process; and
- 9 (10) Coordinate with local jurisdictions to assist with
10 fulfilling the requirements of chapter 36.70B RCW and other local
11 permitting processes.

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

19 (2) The initial project assessment must consider the complexity,
20 size, and need for assistance of the project and must address as
21 appropriate:

22 (a) The expected type of environmental review;

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

25 (c) The permit application forms and other application
26 requirements of the participating permit agencies;

27 (d) The anticipated information needs and issues of concern of
28 each participating agency; and

29 (e) The anticipated time required for the environmental review
30 process under chapter 43.21C RCW and permit decisions by each
31 participating agency, including the estimated time required to
32 determine if the permit applications are complete, to conduct the
33 environmental review under chapter 43.21C RCW, and conduct permitting
34 processes for each participating agency. In determining the estimated
35 time required, full consideration must be given to achieving the
36 greatest possible efficiencies through any concurrent studies and any
37 consolidated applications, hearings, and comment periods.

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

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

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

14 (a) The project proponent must:

15 (i) Enter into a cost-reimbursement agreement pursuant to section
16 208 of this act;

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

19 (iii) Provide information on any voluntary mitigation measures;
20 and

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

24 (b) The department of ecology must determine that the project
25 raises complex coordination, permit processing, or substantive permit
26 review issues.

27 (2) A project proponent who requests designation as a fully
28 coordinated project must provide the department of ecology with a
29 complete description of the project. The department of ecology may
30 request any information from the project proponent that is necessary
31 to make the designation under this section and may convene a meeting
32 of the likely participating permit agencies.

33 (3) For a fully coordinated permitting process, the department of
34 ecology must serve as the main point of contact for the project
35 proponent and participating agencies with regard to coordinating the
36 permitting process for the project as a whole. Each participating
37 permit agency must designate a single point of contact for
38 coordinating with the department of ecology. The department of
39 ecology must keep a schedule identifying required procedural steps in

1 the permitting process and highlighting substantive issues as
2 appropriate that must be resolved in order for the project to move
3 forward. In carrying out these responsibilities, the department of
4 ecology must:

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

7 (b) (i) Reach out to tribal or federal jurisdictions responsible
8 for issuing a permit for the project and invite them to participate
9 in the coordinated permitting process or to receive periodic updates
10 of the project;

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

14 (4) Within 30 days, or longer with agreement of the project
15 proponent, of the date that the department of ecology determines a
16 project is eligible for the fully coordinated permitting process, the
17 department of ecology shall convene a work plan meeting with the
18 project proponent, local government, and the participating permit
19 agencies to develop a coordinated permitting process schedule. The
20 work plan meeting agenda may include any of the following:

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

22 (b) A review of the permit application forms and other
23 application requirements of the agencies that are participating in
24 the coordinated permitting process;

25 (c) An estimation of the timelines that will be used by each
26 participating permit agency to make permit decisions, including the
27 estimated time periods required to determine if the permit
28 applications are complete and to review or respond to each
29 application or submittal of new information. In the development of
30 this timeline, full attention must be given to achieving the maximum
31 efficiencies possible through concurrent studies and consolidated
32 applications, hearings, and comment periods; or

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

37 (5) Each participating agency and the lead agency under chapter
38 43.21C RCW must send at least one representative qualified to discuss
39 the applicability and timelines associated with all permits
40 administered by that agency or jurisdiction to the work plan meeting.

1 At the request of the project proponent, the department of ecology
2 must notify any relevant federal agency or federally recognized
3 Indian tribe of the date of the meeting and invite them to
4 participate in the process.

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

11 (7) Upon the completion of the work plan meeting under subsection
12 (4) of this section, the department of ecology must finalize the
13 coordinated permitting process schedule, share it in writing with the
14 project proponent, participating state agencies, lead agencies under
15 chapter 43.21C RCW, and cities and counties subject to an agreement
16 specified in section 207 of this act, and make the schedule available
17 to the public.

18 (8) As part of the coordinated permit process, the developer may
19 prepare a community benefit agreement or other similar document to
20 identify how to mitigate potential community impacts. The agreement
21 should include benefits in addition to jobs or tax revenues resulting
22 from the project. Approval of any benefit agreement or other legal
23 document stipulating the benefits that the developer agrees to fund
24 or furnish, in exchange for community support of the project, must be
25 made by the local government legislative authority of the county,
26 city, or town in which the project is proposed.

27 (9) If a lead agency under chapter 43.21C RCW, a permit agency,
28 or the project proponent foresees, at any time, that it will be
29 unable to meet the estimated timelines or other obligations under the
30 schedule agreement, it must notify the department of ecology of the
31 reasons for the delay and offer potential solutions or an amended
32 timeline. The department of ecology must notify the participating
33 agencies and the project proponent and, upon agreement of all
34 parties, adjust the schedule or, if necessary, schedule another work
35 plan meeting.

36 (10) The project proponent may withdraw from the coordinated
37 permitting process by submitting to the department of ecology a
38 written request that the process be terminated. Upon receipt of the
39 request, the department of ecology must notify each participating

1 agency that a coordinated permitting process is no longer applicable
2 to the project.

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

9 (b) For the purposes of this section, "expedite" means that a
10 county or city will develop and implement a method to accelerate the
11 process for permitting and environmental review. Expediting should
12 not disrupt or otherwise delay the permitting and environmental
13 review of other projects or require the county or city to incur
14 additional costs that are not compensated.

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

19 (a) Expedite permit processing for the design and construction of
20 the project;

21 (b) Expedite environmental review processing;

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

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

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

28 NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING
29 PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated
30 permitting process, a project proponent must enter into a cost-
31 reimbursement agreement with the department of ecology in accordance
32 with RCW 43.21A.690. The cost-reimbursement agreement is to recover
33 reasonable costs incurred by the department of ecology and
34 participating agencies in carrying out the coordinated permitting
35 process.

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

1 (3) For a fully coordinated permitting process, a project
2 proponent must enter into a development agreement with the county,
3 city, or town in which the project is proposed, in accordance with
4 the authorization and requirements in RCW 36.70B.170 through
5 36.70B.210. The development agreement must detail the obligations of
6 the local jurisdiction and the project applicant. It must also
7 include, but not be limited to, the process the county, city, or town
8 will implement for meeting its obligation to expedite the
9 application, other clarifications for project phasing, and an
10 estimate of reasonable costs.

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

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

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

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

1 (i) The department of ecology must notify the department of
2 archaeology and historic preservation, the department of fish and
3 wildlife, and all affected federally recognized Indian tribes within
4 the project area. The notification must include geographical
5 location, detailed scope of the proposed project, preliminary
6 proposed project details available to federal, state, or local
7 governmental jurisdictions, and all publicly available materials.

8 (ii) The department of ecology must also offer to discuss the
9 project with the department of archaeology and historic preservation,
10 the department of fish and wildlife, and all affected federally
11 recognized Indian tribes within the project area. Discussions may
12 include the project's impact to tribal rights, interests, and
13 resources, including tribal cultural resources, archaeological sites,
14 sacred sites, fisheries, or other rights and interests in tribal
15 lands and lands within which a tribe or tribes possess rights
16 reserved or protected by federal treaty, statute, or executive order.

17 (iii) All affected federally recognized Indian tribes may submit
18 to the department of ecology a summary of tribal issues, questions,
19 concerns, or other statements regarding the project, which must
20 become part of the official files maintained by the department of
21 ecology for the coordinated permitting process. The summary does not
22 limit what issues affected federally recognized Indian tribes may
23 raise in the consultation process.

24 (iv) The notification and offer to initiate discussion must be
25 documented by the department of ecology and delivered to the
26 department of archaeology and historic preservation, the department
27 of fish and wildlife, and to the affected federally recognized Indian
28 tribe or tribes. If the discussions pursuant to (b)(ii) of this
29 subsection do not occur, the department of ecology must document the
30 reason why the discussion or discussions did not occur.

31 (v) Nothing in this section may be interpreted to require the
32 disclosure of information that is exempt from disclosure pursuant to
33 RCW 42.56.300 or federal law, including section 304 of the national
34 historic preservation act of 1966. Any information that is exempt
35 from disclosure pursuant to RCW 42.56.300 or federal law, including
36 section 304 of the national historic preservation act of 1966, shall
37 not become part of publicly available coordinated permitting process
38 files.

39 (2) The department of ecology must identify overburdened
40 communities, as defined in RCW 70A.02.010, which may be potentially

1 affected by clean energy projects participating in the coordinated
2 permitting process. The department of ecology must verify these
3 communities have been meaningfully engaged in the regulatory
4 processes in a timely manner by participating agencies and their
5 comments considered for determining potential impacts.

6 NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this
7 chapter:

8 (a) Prohibits an applicant, a project proponent, or a state
9 agency from entering into a nondisclosure agreement to protect
10 confidential business information, trade secrets, financial
11 information, or other proprietary information;

12 (b) Limits or affects other statutory provisions specific to any
13 state agency related to that agency's procedures and protocols
14 related to the identification, designation, or disclosure of
15 information identified as confidential business information, trade
16 secrets, financial information, or other proprietary information; or

17 (c) Limits or affects the provisions of chapter 42.56 RCW as they
18 apply to information or nondisclosure agreements obtained by a state
19 agency under this chapter.

20 (2) The decisions by the department of commerce to designate a
21 clean energy project of statewide significance must be made available
22 to the public. Regardless of any exemptions otherwise set forth in
23 RCW 42.56.270, publicly shared information must include the
24 designee's name, a brief description of the project, the intended
25 project location, a description of climate and economic development
26 benefits to the state and communities therein, a tribal engagement
27 plan, a community engagement plan, and a community benefit agreement
28 if applicable.

29 (3) The department of commerce may terminate a designation of a
30 clean energy project of statewide significance for reasons that
31 include, but are not limited to, failure to comply with requirements
32 of the designation or the emergence of new information that
33 significantly alters the department of commerce's assessment of the
34 applicant's application, project, or project proponent. The
35 department of commerce must notify the applicant, project proponent,
36 and the department of ecology of the termination in writing within 30
37 days.

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

1 (5) This chapter does not limit or abridge the powers and duties
2 granted to a participating permit agency under the law or laws that
3 authorizes or requires the agency to issue a permit for a project.
4 Each participating permit agency retains its authority to make all
5 decisions on all substantive matters with regard to the respective
6 component permit that is within its scope of its responsibility
7 including, but not limited to, the determination of permit
8 application completeness, permit approval or approval with
9 conditions, or permit denial.

10 **PART 3**

11 **PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY**
12 **PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) "Renewable hydrogen" has the same meaning as defined in RCW
2 80.50.020.

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

5 (k) "Renewable resource" has the same meaning as defined in RCW
6 80.50.020.

7 (1) "Storage facility" has the same meaning as defined in RCW
8 80.50.020.

9 (2)(a) After the submission of an environmental checklist and
10 prior to issuing a threshold determination that a clean energy
11 project proposal is likely to cause a probable significant adverse
12 environmental impact consistent with RCW 43.21C.033, the lead agency
13 must notify the project applicant and explain in writing the basis
14 for its anticipated determination of significance. Prior to issuing
15 the threshold determination of significance, the lead agency must
16 give the project applicant the option of withdrawing and revising its
17 application and the associated environmental checklist. The lead
18 agency shall make its threshold determination based upon the changed
19 or clarified application and associated environmental checklist. The
20 responsible official has no more than 30 days from the date of the
21 resubmission of a clarified or changed application to make a
22 threshold determination, unless the applicant makes material changes
23 that substantially modify the impact of the proposal, in which case
24 the responsible official must treat the resubmitted clarified or
25 changed application as new, and is subject to the timelines
26 established in RCW 43.21C.033.

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

30 (c) Nothing in this subsection amends the requirements of RCW
31 43.21C.033 as they apply to proposals that are not for clean energy
32 projects and nothing in this subsection precludes the lead agency
33 from allowing an applicant for a proposal that is not a clean energy
34 project to follow application processes similar to or the same as the
35 application processes identified in this subsection.

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

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

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

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

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

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

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

19 (iii) Be completed within 60 days of issuance of a determination
20 of significance;

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

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

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

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

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

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

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

- 1 (i) Proposals are closely related; or
2 (ii) Applicant agrees to combining the proposals' evaluation.
3 (b) An agency with authority to impose mitigation under RCW
4 43.21C.060 may require mitigation measures for clean energy projects
5 only to address the environmental impacts that are attributable to
6 and caused by a proposal.

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

9 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of
10 ecology shall prepare nonproject environmental impact statements,
11 pursuant to RCW 43.21C.030, that assess and disclose the probable
12 significant adverse environmental impacts, and that identify related
13 mitigation measures, for each of the following categories of clean
14 energy projects, and colocated battery energy storage projects that
15 may be included in such projects:

- 16 (a) Green electrolytic or renewable hydrogen projects;
17 (b) Utility-scale solar energy projects, which will consider the
18 findings of the Washington State University least-conflict solar
19 siting process; and
20 (c) Onshore utility-scale wind energy projects.

21 (2) The scope of a nonproject environmental review shall be
22 limited to the probable, significant adverse environmental impacts in
23 geographic areas that are suitable for the applicable clean energy
24 type. The department of ecology may consider standard attributes for
25 likely development, proximity to existing transmission or
26 complementary facilities, and planned corridors for transmission
27 capacity construction, reconstruction, or enlargement. The nonproject
28 review is not required to evaluate geographic areas that lack the
29 characteristics necessary for the applicable clean energy project
30 type.

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

- 35 (i) Historic and cultural resources;
36 (ii) Species designated for protection under RCW 77.12.020 or the
37 federal endangered species act;
38 (iii) Landscape scale habitat connectivity and wildlife migration
39 corridors;

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

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

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

7 (vii) Military installations and operations.

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

22 (4) In defining the scope of nonproject review of clean energy
23 projects, the department of ecology shall request input from
24 agencies, federally recognized Indian tribes, industry, stakeholders,
25 local governments, and the public to identify the geographic areas
26 suitable for the applicable clean energy project type, based on the
27 climatic and geophysical attributes conducive to or required for
28 project development. The department of ecology will provide
29 opportunities for the engagement of tribes, overburdened communities,
30 and stakeholders that self-identify an interest in participating in
31 the processes.

32 (5) The department of ecology will offer early and meaningful
33 consultation with any affected federally recognized Indian tribe on
34 the nonproject review under this section for the purpose of
35 understanding potential impacts to tribal rights and resources,
36 including tribal cultural resources, archaeological sites, sacred
37 sites, fisheries, or other rights and interests in tribal lands and
38 lands within which an Indian tribe or tribes possess rights reserved
39 or protected by federal treaty, statute, or executive order. The
40 consultation is independent of, and in addition to, any public

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

9 (6) Final nonproject environmental review documents for the clean
10 energy projects identified in subsection (1) of this section, where
11 applicable, shall include maps identifying probable, significant
12 adverse environmental impacts for the resources evaluated. Maps must
13 be prepared with the intention to illustrate probable, significant
14 impacts, creating a tool that may be used by project proponents,
15 tribes, and government to inform decision making.

16 (7) Following the completion of a nonproject review subject to
17 this section, the interagency clean energy siting coordinating
18 council created in section 101 of this act must consider the findings
19 and make recommendations to the legislature and governor on potential
20 areas to designate as clean energy preferred zones for the clean
21 energy project technology analyzed, and any taxation, regulatory,
22 environmental review, or other benefits that should accrue to
23 projects in such designated preferred zones.

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

26 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
27 A lead agency conducting a project-level environmental review under
28 this chapter of a clean energy project identified in section 302(1)
29 of this act must consider a nonproject environmental impact statement
30 prepared pursuant to section 302 of this act in order to identify and
31 mitigate project-level probable significant adverse environmental
32 impacts.

33 (2)(a) Project-level environmental review conducted pursuant to
34 this chapter of a clean energy project identified in section 302(1)
35 of this act must begin with review of the applicable nonproject
36 environmental impact statement prepared pursuant to section 302 of
37 this act. The review must address any probable significant adverse
38 environmental impacts associated with the proposal that were not
39 analyzed in the nonproject environmental impact statements prepared

1 pursuant to section 302 of this act. The review must identify any
2 mitigation measures specific to the project for probable significant
3 adverse environmental impacts.

4 (b) Lead agencies reviewing site-specific project proposals for
5 clean energy projects under this chapter shall use the nonproject
6 review described in this section through one of the following methods
7 and in accordance with WAC 197-11-600, as it existed as of January 1,
8 2023:

9 (i) Use of the nonproject review unchanged, in accordance with
10 RCW 43.21C.034, if the project does not cause probable significant
11 adverse environmental impact not identified in the nonproject review;

12 (ii) Preparation of an addendum;

13 (iii) Incorporation by reference; or

14 (iv) Preparation of a supplemental environmental impact
15 statement.

16 (3) Clean energy project proposals following the recommendations
17 developed in the nonproject environment review completed pursuant to
18 section 302 of this act must be considered to have mitigated the
19 probable significant adverse project-specific environmental impacts
20 under this chapter for which recommendations were specifically
21 developed unless the project-specific environmental review identifies
22 project-level probable significant adverse environmental impacts not
23 addressed in the nonproject environmental review.

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

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

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

1 (1) In order to encourage greater development and use of
2 renewable energy, a county may not require an application for or the
3 acquisition of a grading permit or any other ministerial or
4 discretionary permit for the following activities associated with a
5 renewable energy project:

6 (a) Site investigation work, including the installation of wind
7 and solar resource evaluation equipment, exploratory excavations, and
8 fill pads necessary for the project, design, environmental planning,
9 or land use applications such as surveys, geotechnical or
10 hydrogeological investigations, infiltration tests and other soil
11 tests, and other related activities; and

12 (b) Clearing, grading, and excavation of less than 500 cubic
13 yards of material for each location conducted on natural terrain with
14 a slope flatter than one unit vertical in five units horizontal,
15 undertaken to determine project feasibility and preliminary design
16 details.

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

20 (3) This section does not apply to activities involving work in-
21 water or fill of wetlands.

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

24 (5) The prohibitions on application requirements under this
25 section apply only to a person who, prior to commencing the
26 activities specified in subsection (1)(a) and (b) of this section,
27 has inquired with the department of archaeology and historic
28 preservation to obtain information on the probability or existence of
29 tribal cultural resources, archaeological sites, and sacred sites
30 within the potential site area. The department of archaeology and
31 historic preservation must provide information to the person carrying
32 out activities described in subsection (1) of this section regarding
33 the federally recognized Indian tribes that would need to be
34 contacted and that agencies would need to offer consultation to in
35 the event that any project development permit applications were to
36 proceed.

37 NEW SECTION. **Sec. 306.** LEAST-CONFLICT PUMPED STORAGE SITING
38 PROCESS. (1) Washington State University energy program shall conduct
39 a least-conflict pumped storage siting process for Washington state,

1 to support expanded capacity to store intermittently produced
2 renewable energy such as from wind and solar, as part of the state's
3 transition from fossil fuel to 100 percent clean energy. The
4 Washington State University energy program may decide to include
5 within the process's scope the colocation of pumped storage with wind
6 or solar energy generation. The goal of the process is to identify
7 areas where there is the least amount of potential conflict in the
8 siting of pumped storage.

9 (2) In carrying out this process, the Washington State University
10 energy program shall provide ample opportunities for the engagement
11 of federally recognized Indian tribes and stakeholders that self-
12 identify as interested in participating in the process.

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

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

26 (5) The least-conflict pumped storage process must be completed
27 by June 30, 2025.

28 **PART 4**

29 **MISCELLANEOUS PROVISIONS**

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

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

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

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

--- **END** ---