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**SENATE BILL 5380**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Nguyen, Billig, Boehnke, Cleveland, Frame, Keiser, Kuderer, Liias, Pedersen, Valdez, and C. Wilson

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

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

NEW SECTION. **Sec.**  STATEMENT OF LEGISLATIVE INTENT. (1) The legislature finds that efficient and effective siting and permitting of new clean energy projects throughout Washington is necessary to: Fight climate change and achieve the state's greenhouse gas emission limits; improve air quality; grow family-wage clean energy jobs and innovative clean energy businesses that provide economic benefits across the state; and make available secure domestic sources of the clean energy products needed to transition off fossil fuels. These projects include renewable energy such as wind and solar, transmission, green electrolytic and renewable hydrogen, alternative jet fuels, battery and pumped storage of clean energy, and manufacturing of clean energy products.

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

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

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

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

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

(b) Creating a designation for clean energy projects of statewide significance to provide benefits including a clean energy navigator and access to the initial assessment and fully coordinated permitting processes;

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

(d) Requiring preparation of a nonproject environmental impact statement for green electrolytic and renewable hydrogen projects statewide, and another for solar energy projects located in the Columbia Basin of central and eastern Washington, with the goal of preparing these nonproject environmental impact statements by June 30, 2025; and

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

**PART 1**

**INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

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

(a) The office of the governor;

(b) The energy facility site evaluation council;

(c) The department of fish and wildlife;

(d) The department of agriculture;

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

(f) The department of archaeology and historic preservation;

(g) The department of natural resources;

(h) The department of transportation;

(i) The utilities and transportation commission;

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

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

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

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

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

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

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

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

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

(e) The creation of an industry clean energy siting advisory committee and any other advisory committees deemed necessary to inform the development of items identified in (a) through (d) of this subsection; and

(f) Supporting the creation and annual updating by the governor's office of Indian affairs of a list of contacts at federally recognized tribes, and tribal preferences regarding outreach about clean energy project siting and permitting, such as outreach by developers directly, by state government in the government-to-government relationship, or both.

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

(3) The coordinating council shall:

(a) Advise the department of commerce in:

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

(A) Carry out an evaluation of state agency siting and permitting processes and related federal and state regulatory requirements;

(B) Identify successful models used in other states for the siting and permitting of projects similar to clean energy projects; and

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

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

(b) Pursue development of a consolidated clean energy application similar to the joint aquatic resources permit application for, at a minimum, state permits needed for clean energy projects. The department of ecology shall lead this effort and engage with federal agencies and local governments to explore inclusion of federal and local permit applications as part of the consolidated application. The department may design a single consolidated application for multiple clean energy project types, may design separate applications for individual clean energy technologies, or may design an application for related resources. The department of ecology shall provide an update on its development of consolidated permit applications for clean energy projects to the governor and legislature by December 31, 2024.

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

**PART 2**

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

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

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

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

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

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

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

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

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

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

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

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

(e) Equipment and products used at storage facilities;

(f) Equipment and products used to improve energy efficiency; and

(g) Semiconductors or semiconductor materials as defined in RCW 82.04.2404.

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

(a) Clean energy product manufacturing facilities;

(b) Electrical transmission facilities;

(c) Facilities to produce nonemitting electric generation or electric generation from renewable resources, as those terms are defined in RCW 19.405.020;

(d) Storage facilities;

(e) Facilities or projects at any facilities that exclusively or primarily process biogenic feedstocks into refined fuel products; or

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

(7) "Electrical transmission facilities" has the same meaning as defined in RCW 80.50.020.

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—PURPOSE. (1) This chapter:

(a) Establishes a process for applicants to apply to the department of commerce for designation as a clean energy project of statewide significance; and

(b) Identifies regulatory assistance available to projects designated as clean energy projects of statewide significance by the department of commerce.

(2) The department of ecology serves as the lead state agency for implementing the fully coordinated clean energy permitting process available to designated clean energy projects of statewide significance for projects that do not apply to the energy facility site evaluation council under chapter 80.50 RCW. The department of ecology is to assist project proponents with coordination of state and local regulatory procedures, including environmental review and permitting, required for completion of specific projects. The department of ecology must verify regulatory agencies have conducted meaningful and timely engagement with potentially affected federally recognized Indian tribes and overburdened communities during this process.

(3) In implementing this chapter, the department of commerce and the department of ecology must attempt to minimize the administrative burdens associated with applying for designation as a clean energy project of statewide significance and to the coordinated clean energy permitting process, in order to encourage applicants to make use of these strategies to facilitate siting and permitting.

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

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

(a) Information regarding the location of the project;

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

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

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

(e) A plan for meaningful engagement and information sharing with federally recognized Indian tribes with interests on or near a proposed site;

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

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

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

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

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

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

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

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

(d) Whether the project is proposed for an area or for a clean energy technology that has been reviewed through a nonproject environmental review process, or least-conflict siting process including, but not limited to, the processes identified in sections 303 and 305 of this act, and whether the project is consistent with the recommendations of such processes; and

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

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

(ii) Overburdened communities; and

(iii) Federally recognized Indian tribes with interests on or near a proposed site.

(3) In determining whether to approve an application, the department of commerce must consider favorably information contained in an application under section 203 of this act demonstrating an applicant's meaningful tribal outreach and engagement, engagement with the department of archeology and historic preservation, and engagement with the governor's office of Indian affairs regarding potentially affected tribal resources and interests, and desired means of engagement related to the project.

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

(b) An applicant whose application to the department of commerce under this chapter is not successful is eligible to reapply to the department of commerce for the designation of a clean energy project as a project of statewide significance.

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY NAVIGATOR. For each clean energy project of statewide significance designated by the department of commerce under this chapter, the department of commerce must assign to the project a clean energy navigator whose responsibilities include, but are not limited to:

(1) Assisting with the initial assessment and, if the project proponent opts to use the fully coordinated permitting process, assisting with the fully coordinated permitting process;

(2) Convening select partners from state and local government, private entities, nongovernmental organizations, and others as appropriate to support successful completion of the project; and

(3) Working with each team member identified in subsection (2) of this section to expedite their actions in furtherance of the project.

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS—DEPARTMENT OF ECOLOGY DUTIES. In support of the coordinated permitting process for clean energy projects of statewide significance, the department of ecology must:

(1) Act as the central point of contact for the project proponent for the coordinated permitting process for projects that do not apply to the energy facility site evaluation council under chapter 80.50 RCW and communicate with the project proponent about defined issues in coordination with clean energy navigators at the department of commerce;

(2) Conduct an initial assessment of the proposed project review and permitting actions for coordination purposes as provided in section 207 of this act;

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

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

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

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

(7) Consult with potentially affected federally recognized Indian tribes with interests on or near a proposed site as provided in section 211 of this act in support of the coordinated permitting process;

(8) Engage with potentially affected overburdened communities as provided in section 211 of this act;

(9) Manage a fully coordinated permitting process; and

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

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS PROJECT INITIAL ASSESSMENT. (1) Upon a determination by the department of commerce that a project is a clean energy project of statewide significance, the department of ecology must conduct an initial assessment to determine the level of coordination needed, taking into consideration the complexity of the project and the experience of those expected to be involved in the project application and review process.

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

(a) The expected type of environmental review;

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

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

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

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

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

(4) The initial assessment must be completed within 60 days of the department of commerce's designation of the project as a clean energy project of statewide significance, unless information on the project is not complete.

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS REQUIREMENTS AND PROCEDURES. (1) A project proponent may submit a written request to the department of ecology for participation in a fully coordinated permitting process. Designation as a fully coordinated project requires that:

(a) The project proponent enters into a cost reimbursement agreement pursuant to section 210 of this act;

(b) The project has been designated by the department of commerce as a clean energy project of statewide significance; and

(c) The department of ecology determines that the project raises complex coordination, permit processing, or substantive permit review issues.

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

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

(a) Conduct the duties for the coordinated permitting process as described in section 207 of this act;

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

(ii) Reach out to local jurisdictions responsible for issuing a permit for the project and inform them of their obligations under section 209 of this act.

(4) Within 30 days, or longer with agreement of the project proponent, of the date that the department of ecology designates a project accepted for the fully coordinated permitting process, the department of ecology shall convene a work plan meeting with the project proponent, the department of commerce-appointed clean energy navigator, and the participating permit agencies to develop a coordinated permitting process schedule. The work plan meeting agenda may include any of the following:

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

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

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

(5) Each participating agency and the lead agency under chapter 43.21C RCW must send at least one representative qualified to discuss the applicability and timelines associated with all permits administered by that agency or jurisdiction to the work plan meeting. At the request of the project proponent, the department of ecology must notify any relevant federal agency or federally recognized Indian tribe of the date of the meeting and invite them to participate in the process.

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

(7) Upon the completion of the work plan meeting under subsection (4) of this section, the department of ecology must finalize the coordinated permitting process schedule, share it in writing with the project proponent, participating state agencies, lead agencies under chapter 43.21C RCW, and cities and counties subject to an agreement specified in section 209 of this act, and make the schedule available to the public.

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

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

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: LOCAL JURISDICTION AGREEMENTS. (1) Counties and cities with development projects designated as clean energy projects of statewide significance within their jurisdictions shall enter into an agreement with the department of ecology and the project proponents of clean energy projects of statewide significance for expediting the completion of projects.

(2) Agreements required by this section must include requirements that the county or city:

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

(b) Expedite environmental review processing;

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

(d) Make local officials or planning staff available to serve on the team specified in section 205(2) of this act;

(e) Develop and follow a plan for consultation with potentially affected federally recognized Indian tribes with interests on or near a proposed site; and

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

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

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

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

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: TRIBAL CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT. (1) The department of ecology must offer early, meaningful, and individual consultation with any affected federally recognized Indian tribe on designated clean energy projects of statewide significance for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the coordinated permitting process by identifying tribal resources or rights potentially affected by the project and determining if there are solutions to avoid, minimize, or mitigate any adverse effects on tribal resources or rights based on environmental or permit reviews.

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

NEW SECTION. **Sec.**  CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: MISCELLANEOUS. (1) Nothing in this chapter:

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

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

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

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

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

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

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

**PART 3**

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

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

SEPA CLEAN ENERGY FACILITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Proposals are closely related; or

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

(b) An agency with authority to impose mitigation under RCW 43.21C.060 may require mitigation measures for clean energy projects only to address the environmental impacts that are attributable to and caused by a proposal and that are additional relative to the environmental impacts that would occur in the absence of the proposal.

(c) Unless requested by the applicant, an agency with authority to impose mitigation under RCW 43.21C.060 for a clean energy project may not reopen, reconsider, or otherwise modify mitigation that was required in connection with a local, state, or federal permit or authorization. This subsection (4)(c) does not apply to modifications of mitigation that were anticipated as part of an adaptive management strategy in a previously issued permit or authorization.

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

PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.

(1) The department of ecology shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures, for each of the following categories of projects:

(a) Green electrolytic or renewable hydrogen projects; and

(b) Solar energy projects located in the Columbia Basin of eastern and central Washington. The nonproject environmental impact statement for solar energy projects in the Columbia Basin of eastern and central Washington will consider the findings of the Washington State University least-conflict solar siting process.

(2) The nonproject environmental impact statements must include:

(a) Identification of probable significant impacts by geographic location;

(b) Identification of cumulative impacts to landscape-scale habitat and habitat connectivity corridors; and

(c) Identification of measures to avoid, minimize, and mitigate probable significant impacts identified during the review. These include impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal resources as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010.

(3) The department of ecology must determine the scope of the nonproject environmental impact statements based on input from industry, local governments, federally recognized Indian tribes, and stakeholders. The department of ecology will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the processes. The department of ecology will offer early and meaningful consultation with any affected federally recognized tribe on potential impacts to tribal resources.

(4) Project proponents of solar energy project proposals in the Columbia Basin of eastern and central Washington and green electrolytic or renewable hydrogen project proposals must incorporate impact analyses from the nonproject reviews in the project-level review process undertaken pursuant to this chapter.

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

LEAD AGENCY USE OF PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.

(1) A lead agency conducting a project-level environmental review under this chapter of a solar energy project proposal in the Columbia Basin of eastern and central Washington or a green electrolytic or renewable hydrogen project proposal must adopt, where appropriate, a nonproject environmental impact statement prepared pursuant to section 302 of this act in order to identify and mitigate project-level probable significant impacts.

(2) The project-level environmental review process conducted pursuant to this chapter of a solar energy project proposal in the Columbia Basin of eastern and central Washington or a green electrolytic or renewable hydrogen project proposal must address any probable significant impacts that were not analyzed in the nonproject environmental impact statements prepared pursuant to section 302 of this act and must identify any avoidance, minimization, and mitigation measures specific to the project for those probable significant impacts.

(3) When preparing a project-level environmental review, the lead agency shall review the nonproject environmental impact statement prepared pursuant to section 302 of this act to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis must be reanalyzed in the project environmental review.

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

PROHIBITION ON DEMONSTRATION OF NEED.

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

NEW SECTION. **Sec.**  LEAST-CONFLICT PUMPED STORAGE SITING PROCESS. (1) Washington State University energy program shall conduct a least-conflict pumped storage siting process for Washington state, to support expanded capacity to store intermittently produced renewable energy such as from wind and solar, as part of the state's transition from fossil fuel to 100 percent clean energy. The Washington State University energy program may decide to include within the process's scope the colocation of pumped storage with wind or solar energy generation. The goal of the process is to identify areas where there is the least amount of potential conflict in the siting of pumped storage.

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

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

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

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

**PART 4**

**MISCELLANEOUS PROVISIONS**

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

NEW SECTION. **Sec.**  Sections 201 through 212 of this act constitute a new chapter in Title 43 RCW.

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

**--- END ---**