
HOUSE BILL 1216

State of Washington

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2023 Regular Session

By Representatives Fitzgibbon, Doglio, Berry, Reed, Simmons, Macri, Fosse, and Pollet; by request of Office of the Governor

Read first time 01/10/23. Referred to Committee on Environment & Energy.

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 new chapters to Title 43 RCW; and creating new sections.

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

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

17 (2) The legislature intends to: Enable more efficient and
18 effective siting and permitting of clean energy projects with
19 policies and investments that protect the environment, overburdened
20 communities, and tribal resources; bring benefits to the communities
21 that host clean energy projects; and facilitate the rapid transition

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

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

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

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

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

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

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

29 (d) Requiring preparation of a nonproject environmental impact
30 statement for green electrolytic and renewable hydrogen projects
31 statewide, and another for solar energy projects located in the
32 Columbia Basin of central and eastern Washington, with the goal of
33 preparing these nonproject environmental impact statements by June
34 30, 2025; and

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

38 **PART 1**

39 **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 agencies invited by the department of commerce and the
18 department of ecology with key roles in siting clean energy to
19 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 Study*, 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 an industry clean energy siting advisory
11 committee and any other advisory committees deemed necessary to
12 inform the development of items identified in (a) through (d) of this
13 subsection; and

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

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

28 (3) The coordinating council shall:

29 (a) Advise the department of commerce in:

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

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

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

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

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

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

14 (c) Explore development of a consolidated permit for clean energy
15 projects. The department of ecology shall lead this effort and
16 explore options including a clean energy project permit that
17 consolidates department of ecology permits only, or that consolidates
18 permits from multiple state and local agencies. The permit structure
19 must identify criteria or conditions that must be met for projects to
20 use the consolidated permit. The department of ecology may analyze
21 criteria or conditions as part of a nonproject review under chapter
22 43.21C RCW. The department of ecology shall update the legislature on
23 its evaluation of consolidated permit options and make
24 recommendations by October 1, 2024.

25 **PART 2**

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

28 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
29 section apply throughout this chapter unless the context clearly
30 requires otherwise.

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

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

1 fuel" includes jet fuels derived from coprocessed feedstocks at a
2 conventional petroleum refinery.

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

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

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

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

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

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

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

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

36 (e) Equipment and products used at storage facilities;

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

38 (g) Semiconductors or semiconductor materials as defined in RCW
39 82.04.2404.

1 (6) "Clean energy project" means the following facilities
2 together with their associated facilities:
3 (a) Clean energy product manufacturing facilities;
4 (b) Electrical transmission facilities;
5 (c) Facilities to produce nonemitting electric generation or
6 electric generation from renewable resources, as those terms are
7 defined in RCW 19.405.020;
8 (d) Storage facilities;
9 (e) Facilities or projects at any facilities that exclusively or
10 primarily process biogenic feedstocks into refined fuel products; or
11 (f) Facilities or projects at any facilities that exclusively or
12 primarily process alternative jet fuel.
13 (7) "Electrical transmission facilities" has the same meaning as
14 defined in RCW 80.50.020.
15 (8) "Fully coordinated permit process" means a comprehensive
16 coordinated permitting assistance approach supported by a written
17 agreement between the project proponent, the department of ecology,
18 and the participating agencies.
19 (9) "Fully coordinated project" means a clean energy project
20 subject to the fully coordinated permit process.
21 (10) "Green electrolytic hydrogen" has the same meaning as
22 defined in RCW 80.50.020.
23 (11) "Green hydrogen carrier" has the same meaning as defined in
24 RCW 80.50.020.
25 (12) "Overburdened community" has the same meaning as defined in
26 RCW 70A.02.010.
27 (13) "Permit" means any permit, license, certificate, use
28 authorization, or other form of governmental review or approval
29 required in order to construct, expand, or operate a project in the
30 state of Washington.
31 (14) "Permit agency" means any state or local agency authorized
32 by law to issue permits.
33 (15) "Project proponent" means a person, business, or any entity
34 applying for or seeking a permit or permits in the state of
35 Washington.
36 (16) "Renewable hydrogen" has the same meaning as defined in RCW
37 80.50.020.
38 (17) "Renewable natural gas" has the same meaning as defined in
39 RCW 80.50.020.

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

3 (19) "Storage facility" has the same meaning as defined in RCW
4 80.50.020.

5 NEW SECTION. **Sec. 202.** CLEAN ENERGY PROJECTS OF STATEWIDE
6 SIGNIFICANCE—PURPOSE. (1) This chapter:

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

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

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

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

31 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE
32 SIGNIFICANCE—APPLICATION PROCESS. (1) The department of commerce
33 shall develop an application for the designation of clean energy
34 projects as clean energy projects of statewide significance.

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 204.** CLEAN ENERGY PROJECTS OF STATEWIDE
28 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department
29 of commerce, in consultation with other state agencies identified as
30 likely to have a role in siting or permitting a project, must review
31 applications received under section 203 of this act.

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

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

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

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

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

11 (d) Whether the project is proposed for an area or for a clean
12 energy technology that has been reviewed through a nonproject
13 environmental review process, or least-conflict siting process
14 including, but not limited to, the processes identified in sections
15 303 and 305 of this act, and whether the project is consistent with
16 the recommendations of such processes; and

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

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

22 (ii) Overburdened communities; and

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

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

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

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

1 NEW SECTION. **Sec. 205.** CLEAN ENERGY PROJECTS OF STATEWIDE
2 SIGNIFICANCE—CLEAN ENERGY NAVIGATOR. For each clean energy project of
3 statewide significance designated by the department of commerce under
4 this chapter, the department of commerce must assign to the project a
5 clean energy navigator whose responsibilities include, but are not
6 limited to:

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

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

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

15 NEW SECTION. **Sec. 206.** CLEAN ENERGY PROJECTS OF STATEWIDE
16 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS—DEPARTMENT
17 OF ECOLOGY DUTIES. In support of the coordinated permitting process
18 for clean energy projects of statewide significance, the department
19 of ecology must:

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

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

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

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

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

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

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

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

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

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

11 NEW SECTION. **Sec. 207.** CLEAN ENERGY PROJECTS OF STATEWIDE
12 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS PROJECT
13 INITIAL ASSESSMENT. (1) Upon a determination by the department of
14 commerce that a project is a clean energy project of statewide
15 significance, the department of ecology must conduct an initial
16 assessment to determine the level of coordination needed, taking into
17 consideration the complexity of the project and the experience of
18 those expected to be involved in the project application and review
19 process.

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

23 (a) The expected type of environmental review;

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

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

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

30 (e) The anticipated time required for the environmental review
31 process under chapter 43.21C RCW and permit decisions by each
32 participating agency, including the estimated time required to
33 determine if the permit applications are complete, to conduct the
34 environmental review under chapter 43.21C RCW, and conduct permitting
35 processes for each participating agency. In determining the estimated
36 time required, full consideration must be given to achieving the
37 greatest possible efficiencies through any concurrent studies and any
38 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 department of commerce's designation of the project as a clean
6 energy project of statewide significance, unless information on the
7 project is not complete.

8 NEW SECTION. **Sec. 208.** CLEAN ENERGY PROJECTS OF STATEWIDE
9 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS REQUIREMENTS
10 AND PROCEDURES. (1) A project proponent may submit a written request
11 to the department of ecology for participation in a fully coordinated
12 permitting process. Designation as a fully coordinated project
13 requires that:

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

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

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

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

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

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

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

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

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

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

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

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

28 (5) Each participating agency and the lead agency under chapter
29 43.21C RCW must send at least one representative qualified to discuss
30 the applicability and timelines associated with all permits
31 administered by that agency or jurisdiction to the work plan meeting.
32 At the request of the project proponent, the department of ecology
33 must notify any relevant federal agency or federally recognized
34 Indian tribe of the date of the meeting and invite them to
35 participate in the process.

36 (6) Any accelerated time period for the consideration of a permit
37 application or for the completion of the environmental review process
38 under chapter 43.21C RCW must be consistent with any statute, rule,
39 or regulation, or adopted state policy, standard, or guideline that

1 requires the participation of other agencies, federally recognized
2 Indian tribes, or interested persons in the application process.

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

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

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

25 NEW SECTION. **Sec. 209.** CLEAN ENERGY PROJECTS OF STATEWIDE
26 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: LOCAL
27 JURISDICTION AGREEMENTS. (1) Counties and cities with development
28 projects designated as clean energy projects of statewide
29 significance within their jurisdictions shall enter into an agreement
30 with the department of ecology and the project proponents of clean
31 energy projects of statewide significance for expediting the
32 completion of projects.

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

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

37 (b) Expedite environmental review processing;

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

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

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

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

8 NEW SECTION. **Sec. 210.** CLEAN ENERGY PROJECTS OF STATEWIDE
9 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: COST
10 REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated permitting
11 process, a project proponent must enter into a cost-reimbursement
12 agreement with the department of ecology in accordance with RCW
13 43.21A.690. The agreement is to recover reasonable costs incurred by
14 the department of ecology and participating agencies in carrying out
15 the coordinated permitting process.

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

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

22 NEW SECTION. **Sec. 211.** CLEAN ENERGY PROJECTS OF STATEWIDE
23 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS: TRIBAL
24 CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT. (1) The
25 department of ecology must offer early, meaningful, and individual
26 consultation with any affected federally recognized Indian tribe on
27 designated clean energy projects of statewide significance for the
28 purpose of understanding potential impacts to tribal rights and
29 resources, including tribal cultural resources, archaeological sites,
30 sacred sites, fisheries, or other rights and interests in tribal
31 lands and lands within which an Indian tribe or tribes possess rights
32 reserved or protected by federal treaty, statute, or executive order.
33 The consultation is independent of, and in addition to, any public
34 participation process required by state law, or by a state agency.
35 The goal of the consultation process is to support the coordinated
36 permitting process by identifying tribal resources or rights
37 potentially affected by the project and determining if there are

1 solutions to avoid, minimize, or mitigate any adverse effects on
2 tribal resources or rights based on environmental or permit reviews.

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

11 NEW SECTION. **Sec. 212.** CLEAN ENERGY PROJECTS OF STATEWIDE
12 SIGNIFICANCE—CLEAN ENERGY COORDINATED PERMITTING PROCESS:
13 MISCELLANEOUS. (1) Nothing in this chapter:

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

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

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

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

35 (3) The department of commerce may terminate a designation of a
36 clean energy project of statewide significance for reasons that
37 include, but are not limited to, failure to comply with requirements
38 of the designation or the emergence of new information that
39 significantly alters the department of commerce's assessment of the

1 applicant's application, project, or project proponent. The
2 department of commerce must notify the applicant, project proponent,
3 and the department of ecology of the termination in writing within 30
4 days.

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

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

16 **PART 3**
17 **PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY**
18 **PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

8 (i) "Renewable hydrogen" has the same meaning as defined in RCW
9 80.50.020.

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

12 (k) "Renewable resource" has the same meaning as defined in RCW
13 80.50.020.

14 (l) "Storage facility" has the same meaning as defined in RCW
15 80.50.020.

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

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

37 (c) Nothing in this subsection amends the requirements of RCW
38 43.21C.033 as they apply to proposals that are not for clean energy
39 projects and nothing in this subsection precludes the lead agency
40 from allowing an applicant for a proposal that is not a clean energy

1 project to follow application processes similar to or the same as the
2 application processes identified in this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (i) Proposals are closely related; or

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

10 (b) An agency with authority to impose mitigation under RCW
11 43.21C.060 may require mitigation measures for clean energy projects
12 only to address the environmental impacts that are attributable to
13 and caused by a proposal and that are additional relative to the
14 environmental impacts that would occur in the absence of the
15 proposal.

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

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

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

31 (a) Green electrolytic or renewable hydrogen projects; and

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

37 (2) The nonproject environmental impact statements must include:

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

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

3 (c) Identification of measures to avoid, minimize, and mitigate
4 probable significant impacts identified during the review. These
5 include impacts to elements of the environment as defined in WAC
6 197-11-444 as it existed as of January 1, 2023, tribal resources as
7 identified in RCW 70A.65.305, and overburdened communities as defined
8 in RCW 70A.02.010.

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

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

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

25 LEAD AGENCY USE OF PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.

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

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

1 mitigation measures specific to the project for those probable
2 significant impacts.

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

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

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

22 NEW SECTION. **Sec. 305.** LEAST-CONFLICT PUMPED STORAGE SITING
23 PROCESS. (1) Washington State University energy program shall conduct
24 a least-conflict pumped storage siting process for Washington state,
25 to support expanded capacity to store intermittently produced
26 renewable energy such as from wind and solar, as part of the state's
27 transition from fossil fuel to 100 percent clean energy. The
28 Washington State University energy program may decide to include
29 within the process's scope the colocation of pumped storage with wind
30 or solar energy generation. The goal of the process is to identify
31 areas where there is the least amount of potential conflict in the
32 siting of pumped storage.

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

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

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

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

16 **PART 4**

17 **MISCELLANEOUS PROVISIONS**

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

20 NEW SECTION. **Sec. 402.** Sections 201 through 212 of this act
21 constitute a new chapter in Title 43 RCW.

22 NEW SECTION. **Sec. 403.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

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