

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1216**

Chapter 230, Laws of 2023

68th Legislature  
2023 Regular Session

CLEAN ENERGY PROJECT SITING

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023  
Yeas 78 Nays 18

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 8, 2023  
Yeas 30 Nays 18

DENNY HECK

**President of the Senate**

Approved May 3, 2023 10:20 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1216** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 4, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1216**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

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

READ FIRST TIME 02/24/23.

1 AN ACT Relating to clean energy siting; amending RCW 44.39.010  
2 and 44.39.012; adding a new section to chapter 80.50 RCW; adding new  
3 sections to chapter 43.21C RCW; adding a new section to chapter  
4 36.70B RCW; adding a new section to chapter 36.01 RCW; adding new  
5 chapters to Title 43 RCW; creating new sections; prescribing  
6 penalties; and providing an expiration date.

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

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

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

1 that is required to avoid the worst impacts of climate change on  
2 Washington's people and places. There is no single solution for  
3 improved siting and permitting processes. Rather, a variety of  
4 efforts and investments will help bring together state, local,  
5 tribal, and federal governments, communities, workers, clean energy  
6 project developers, and others to succeed in this essential task. The  
7 legislature intends to make biennial appropriations to support tribal  
8 review of clean energy project proposals, permit applications, and  
9 environmental reviews, as well as tribal participation in up-front  
10 planning for clean energy projects, such as nonproject environmental  
11 impact statements for clean energy projects as described in this act.

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

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

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

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

27 (b) Creating a designation for clean energy projects of statewide  
28 significance;

29 (c) Creating a fully coordinated permit process for clean energy  
30 projects;

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

33 (e) Requiring preparation of separate nonproject environmental  
34 impact statements for green electrolytic and renewable hydrogen  
35 projects and colocated battery energy storage facilities, onshore  
36 utility-scale wind energy projects and colocated battery energy  
37 storage facilities, and for solar energy projects and colocated  
38 battery energy storage facilities, with the goal of preparing these  
39 nonproject reviews by June 30, 2025; and

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

4 **PART 1**

5 **INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL**

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

- 11 (a) The office of the governor;
- 12 (b) The energy facility site evaluation council;
- 13 (c) The department of fish and wildlife;
- 14 (d) The department of agriculture;
- 15 (e) The governor's office of Indian affairs;
- 16 (f) The department of archaeology and historic preservation;
- 17 (g) The department of natural resources;
- 18 (h) The department of transportation;
- 19 (i) The utilities and transportation commission;
- 20 (j) The governor's office for regulatory innovation and  
21 assistance;

22 (k) Staff from the environmental justice council; and  
23 (l) Other state and federal agencies invited by the department of  
24 commerce and the department of ecology with key roles in siting clean  
25 energy to participate on an ongoing or ad hoc basis.

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

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

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

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

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

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

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

19 (e) The creation of advisory committees deemed necessary to  
20 inform the development of items identified in (a) through (d) of this  
21 subsection;

22 (f) Supporting the governor's office of Indian affairs in  
23 creating and updating annually, or when requested by a federally  
24 recognized Indian tribe, a list of contacts at federally recognized  
25 Indian tribes, applicable tribal laws on consultation from federally  
26 recognized Indian tribes, and tribal preferences regarding outreach  
27 about clean energy project siting and permitting, such as outreach by  
28 developers directly, by state government in the government-to-  
29 government relationship, or both;

30 (g) Supporting the department of archaeology and historic  
31 preservation, the governor's office of Indian affairs, the department  
32 of commerce, and the energy facility site evaluation council in  
33 developing and providing to clean energy project developers a  
34 training on consultation and engagement processes for federally  
35 recognized Indian tribes. The governor's office of Indian affairs  
36 must collaborate with federally recognized Indian tribes in the  
37 development of the training;

38 (h) Supporting the department of archaeology and historic  
39 preservation in updating the statewide predictive archaeological  
40 model to provide clean energy project developers information about

1 where archaeological resources are likely to be found and the  
2 potential need for archaeological investigations; and

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

6 (2) The coordinating council shall provide an annual report  
7 beginning October 1, 2024, to the governor and the appropriate  
8 committees of the legislature summarizing: Progress on efficient,  
9 effective, and responsible siting and permitting of clean energy  
10 projects; areas of additional work, including where clean energy  
11 project siting and permitting outcomes are not broadly recognized as  
12 efficient, effective, or responsible; resource needs; recommendations  
13 for future nonproject environmental impact statements for categories  
14 of clean energy projects; and any needed policy changes to help  
15 achieve the deployment of clean energy necessary to meet the state's  
16 statutory greenhouse gas emissions limits, chapter 70A.45 RCW, and  
17 the clean energy transformation act requirements, chapter 19.405 RCW,  
18 and to support achieving the state energy strategy adopted by the  
19 department of commerce.

20 (3) The coordinating council shall:

21 (a) Advise the department of commerce in:

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

23 (A) Carry out an evaluation of state agency siting and permitting  
24 processes for clean energy projects and related federal and state  
25 regulatory requirements, including the energy facility site  
26 evaluation council permitting process authorized in chapter 80.50  
27 RCW;

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

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

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

37 (b) Pursue development of a consolidated clean energy application  
38 similar to the joint aquatic resources permit application for, at a  
39 minimum, state permits needed for clean energy projects. The  
40 department of ecology shall lead this effort and engage with federal

1 agencies and local governments to explore inclusion of federal and  
2 local permit applications as part of the consolidated application.  
3 The department may design a single consolidated application for  
4 multiple clean energy project types, may design separate applications  
5 for individual clean energy technologies, or may design an  
6 application for related resources. The department of ecology shall  
7 provide an update on its development of consolidated permit  
8 applications for clean energy projects to the governor and  
9 legislature by December 31, 2024. The consolidated permit application  
10 process must be available, but not required, for clean energy  
11 projects;

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

24 (d) Determine priorities for categories of clean energy projects  
25 to be the focus of new nonproject environmental impact statements  
26 under chapter 43.21C RCW for the legislature to fund subsequent to  
27 the nonproject environmental impact statements specified in section  
28 302 of this act; and

29 (e) Consider and provide recommendations to the legislature on  
30 additional benefits that could be provided to projects designated as  
31 clean energy projects of statewide significance under section 203 of  
32 this act.

33 **PART 2**  
34 **CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY**  
35 **COORDINATED PERMITTING PROCESS**

36 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this  
37 section apply throughout this chapter unless the context clearly  
38 requires otherwise.

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

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

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

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

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

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

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

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

38 (c) Renewable or green electrolytic hydrogen, including preparing  
39 renewable or green electrolytic hydrogen for distribution as an



1 energy carrier or manufacturing feedstock, or converting it to a  
2 green hydrogen carrier;

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

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

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

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

9 (h) Semiconductors or semiconductor materials as defined in RCW  
10 82.04.2404; and

11 (i) Projects or facility upgrades undertaken by emissions-  
12 intensive, trade-exposed industries as classified in RCW 70A.65.110  
13 for which the facility can demonstrate expected reductions in overall  
14 facility greenhouse gas emissions to align with the cap trajectory  
15 under chapter 70A.65 RCW, where the project does not degrade local  
16 air quality.

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

19 (a) Clean energy product manufacturing facilities;

20 (b) Electrical transmission facilities;

21 (c) Facilities to produce nonemitting electric generation or  
22 electric generation from renewable resources, as defined in RCW  
23 19.405.020, except for:

24 (i) Hydroelectric generation that includes new diversions, new  
25 impoundments, new bypass reaches, or the expansion of existing  
26 reservoirs constructed after May 7, 2019, unless the diversions,  
27 bypass reaches, or reservoir expansions are necessary for the  
28 operation of a pumped storage facility that: (A) Does not conflict  
29 with existing state or federal fish recovery plans; and (B) complies  
30 with all local, state, and federal laws and regulations; and

31 (ii) Hydroelectric generation associated with facilities or  
32 persons that have been the subject of an enforcement action, penalty  
33 order, or settled any enforcement action or penalty order with any  
34 agreement to pay a penalty or pay for or conduct mitigation under  
35 chapter 90.48 or 77.55 RCW during the preceding 15 years that  
36 resulted in the payment of a penalty of at least \$100,000 or  
37 conducting mitigation with a value of at least \$100,000;

38 (d) Storage facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE  
5 SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department  
6 of commerce, in consultation with natural resources agencies and  
7 other state agencies identified as likely to have a role in siting or  
8 permitting a project, must review applications received under section  
9 202 of this act. Within 14 business days of receiving the  
10 application, the department of commerce must mail or provide in  
11 person a written determination that the application is complete, or  
12 if the application is incomplete, an opportunity to meet with the  
13 department of commerce to determine what is necessary to make the  
14 application complete. Within seven business days after an applicant  
15 has submitted additional information identified by the department of  
16 commerce as being necessary for a complete application, the  
17 department of commerce must notify the applicant whether the  
18 application is complete or what additional information is necessary.

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

23 (c) A determination of completeness does not preclude the  
24 department of commerce from requesting additional information if new  
25 information is required or substantial changes in the proposed  
26 project occur.

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

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

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

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

1 (d) Whether the project is proposed for an area or for a clean  
2 energy technology that has been reviewed through a nonproject  
3 environmental review process, or least-conflict siting process  
4 including, but not limited to, the processes identified in sections  
5 303 and 306 of this act, and whether the project is consistent with  
6 the recommendations of such processes;

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

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

12 (ii) Overburdened communities; and

13 (iii) Rights, interests, and resources, including tribal cultural  
14 resources, of potentially affected federally recognized Indian  
15 tribes; and

16 (f) Input received from potentially affected federally recognized  
17 Indian tribes, which the department must solicit and acknowledge the  
18 receipt of.

19 (3) In determining whether to approve an application, the  
20 department of commerce must consider information contained in an  
21 application under section 202 of this act demonstrating an  
22 applicant's tribal outreach and engagement, engagement with the  
23 department of archaeology and historic preservation, and engagement  
24 with the governor's office of Indian affairs.

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

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

30 NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING  
31 PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated  
32 permit process is established for clean energy projects that do not  
33 apply to the energy facility site evaluation council under chapter  
34 80.50 RCW. In support of the coordinated permitting process for clean  
35 energy projects, the department of ecology must:

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

- 1 (2) Conduct an initial assessment of the proposed project review  
2 and permitting actions for coordination purposes as provided in  
3 section 205 of this act;
- 4 (3) Ensure that the project proponent has been informed of all  
5 the information needed to apply for the state and local permits that  
6 are included in the coordinated permitting process;
- 7 (4) Facilitate communication between project proponents and  
8 agency staff to promote timely permit decisions and promote adherence  
9 to agreed schedules;
- 10 (5) Verify completion among participating agencies of  
11 administrative review and permit procedures, such as providing public  
12 notice;
- 13 (6) Assist in resolving any conflict or inconsistency among  
14 permit requirements and conditions;
- 15 (7) Consult with potentially affected federally recognized Indian  
16 tribes as provided in section 209 of this act in support of the  
17 coordinated permitting process;
- 18 (8) Engage with potentially affected overburdened communities as  
19 provided in section 209 of this act;
- 20 (9) Manage a fully coordinated permitting process; and
- 21 (10) Coordinate with local jurisdictions to assist with  
22 fulfilling the requirements of chapter 36.70B RCW and other local  
23 permitting processes.

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

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

34 (a) The expected type of environmental review;

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

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

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

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

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

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

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

25 (a) The project proponent must:

26 (i) Enter into a cost-reimbursement agreement pursuant to section  
27 208 of this act;

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

30 (iii) Provide information on any voluntary mitigation measures;  
31 and

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

35 (b) The department of ecology must determine that the project  
36 raises complex coordination, permit processing, or substantive permit  
37 review issues.

38 (2) A project proponent who requests designation as a fully  
39 coordinated project must provide the department of ecology with a

1 complete description of the project. The department of ecology may  
2 request any information from the project proponent that is necessary  
3 to make the designation under this section and may convene a meeting  
4 of the likely participating permit agencies.

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

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

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

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

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

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

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

36 (c) An estimation of the timelines that will be used by each  
37 participating permit agency to make permit decisions, including the  
38 estimated time periods required to determine if the permit  
39 applications are complete and to review or respond to each  
40 application or submittal of new information. In the development of



1 this timeline, full attention must be given to achieving the maximum  
2 efficiencies possible through concurrent studies and consolidated  
3 applications, hearings, and comment periods; or

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

8 (5) Each participating agency and the lead agency under chapter  
9 43.21C RCW must send at least one representative qualified to discuss  
10 the applicability and timelines associated with all permits  
11 administered by that agency or jurisdiction to the work plan meeting.  
12 The department of ecology must notify any relevant federal agency or  
13 potentially affected federally recognized Indian tribe of the date of  
14 the meeting and invite them to participate in the process.

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

21 (7) Upon the completion of the work plan meeting under subsection  
22 (4) of this section, the department of ecology must finalize the  
23 coordinated permitting process schedule, share it in writing with the  
24 project proponent, participating state agencies, lead agencies under  
25 chapter 43.21C RCW, and cities and counties subject to an agreement  
26 specified in section 207 of this act, and make the schedule available  
27 to the public.

28 (8) As part of the coordinated permit process, the developer may  
29 prepare a community benefit agreement or other similar document to  
30 identify how to mitigate potential community impacts or impacts to  
31 tribal rights and resources, including cultural resources. The  
32 agreement should include benefits in addition to jobs or tax revenues  
33 resulting from the project. Approval of any benefit agreement or  
34 other legal document stipulating the benefits that the developer  
35 agrees to fund or furnish, in exchange for community or tribal  
36 government support of the project, must be made by the local  
37 government legislative authority of the county, city, or town in  
38 which the project is proposed or by the relevant federally recognized  
39 Indian tribal government.

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

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

16 (11)(a) Permitting decisions made by state and local  
17 jurisdictions under the fully coordinated permitting process in this  
18 chapter are considered final, subject to any appeals process  
19 available to applicants or other parties. Applicants utilizing the  
20 fully coordinated permitting process in this chapter are not eligible  
21 for permitting under chapter 80.50 RCW unless a substantial change is  
22 made to the proposed project.

23 (b) Prior to considering an application under chapter 80.50 RCW  
24 from a project applicant that has previously used the fully  
25 coordinated permitting process under this chapter for the project,  
26 the energy facility site evaluation council must determine that the  
27 project applicant has made a substantial change to the project,  
28 relative to the project as it was proposed under the fully  
29 coordinated permitting process.

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

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

1 review of other projects or require the county or city to incur  
2 additional costs that are not compensated.

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

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

9 (b) Expedite environmental review processing;

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

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

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

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

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

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

36 (4) For a fully coordinated permitting process, a project  
37 proponent may enter directly into a cost-reimbursement agreement  
38 similar to that described in subsection (1) of this section, to  
39 reimburse the costs of a federally recognized Indian tribe for

1 reviewing and providing input on the siting and permitting of a clean  
2 energy project.

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

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

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

27 (b) At the earliest possible date after the initiation of the  
28 coordinated permitting process under this chapter, the department of  
29 ecology shall engage in a preapplication process with all affected  
30 federally recognized Indian tribes potentially impacted by the  
31 project.

32 (i) The department of ecology must notify the department of  
33 archaeology and historic preservation, the department of fish and  
34 wildlife, and all affected federally recognized Indian tribes  
35 potentially impacted by the project. The notification must include  
36 geographical location, detailed scope of the proposed project,  
37 preliminary proposed project details available to federal, state, or  
38 local governmental jurisdictions, and all publicly available  
39 materials.

1 (ii) The department of ecology must also offer to discuss the  
2 project with the department of archaeology and historic preservation,  
3 the department of fish and wildlife, and all affected federally  
4 recognized Indian tribes potentially impacted by the project. Any  
5 resultant discussions must include the project's impact to tribal  
6 rights, interests, and resources, including tribal cultural  
7 resources, archaeological sites, sacred sites, fisheries, or other  
8 rights and interests in tribal lands and lands within which a tribe  
9 or tribes possess rights reserved or protected by federal treaty,  
10 statute, or executive order.

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

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

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

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

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

3        (a) Prohibits an applicant, a project proponent, a state agency,  
4 a local government, or a federally recognized Indian tribe from  
5 entering into a nondisclosure agreement to protect confidential  
6 business information, trade secrets, financial information, or other  
7 proprietary information;

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

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

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

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

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

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

38        (5) This chapter does not limit or abridge the powers and duties  
39 granted to a participating permit agency under the law or laws that  
40 authorizes or requires the agency to issue a permit for a project.

1 Each participating permit agency retains its authority to make all  
2 decisions on all substantive matters with regard to the respective  
3 component permit that is within its scope of its responsibility  
4 including, but not limited to, the determination of permit  
5 application completeness, permit approval or approval with  
6 conditions, or permit denial.

7 NEW SECTION. **Sec. 211.** A new section is added to chapter 80.50  
8 RCW to read as follows:

9 Applicants utilizing the fully coordinated permitting process  
10 under chapter 43.--- RCW (the new chapter created in section 402 of  
11 this act) are not eligible for permitting under this chapter unless a  
12 substantial change is made to the proposed project. Prior to  
13 considering an application under this chapter from a project  
14 applicant that has previously used the fully coordinated permitting  
15 process under chapter 43.--- RCW (the new chapter created in section  
16 402 of this act) for that project, the council must determine that  
17 the project applicant has made a substantial change to the project,  
18 relative to the project as it was proposed under the fully  
19 coordinated permitting process.

20 **PART 3**

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

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

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

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

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

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

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

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

1 (f) "Closely related proposals" means proposals that:  
2 (i) Cannot or will not proceed unless the other proposals, or  
3 parts of proposals, are implemented simultaneously with them; or  
4 (ii) Are interdependent parts of a larger proposal and depend on  
5 the larger proposal as their justification or for their  
6 implementation.

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

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

11 (i) "Renewable hydrogen" has the same meaning as defined in RCW  
12 80.50.020.

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

15 (k) "Renewable resource" has the same meaning as defined in RCW  
16 80.50.020.

17 (l) "Storage facility" has the same meaning as defined in RCW  
18 80.50.020.

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

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



1 (c) Nothing in this subsection amends the requirements of RCW  
2 43.21C.033 as they apply to proposals that are not for clean energy  
3 projects and nothing in this subsection precludes the lead agency  
4 from allowing an applicant for a proposal that is not a clean energy  
5 project to follow application processes similar to or the same as the  
6 application processes identified in this subsection.

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

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

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

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

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

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

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

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

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

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

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

39 (e) A failure to comply with the requirements in this subsection  
40 is not subject to appeal and does not provide a basis for the

1 invalidation of the review by an agency under this chapter. Nothing  
2 in this subsection creates any civil liability for an agency or  
3 creates a new cause of action against an agency.

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

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

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

11 (i) Proposals are closely related; or

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

13 (b) An agency with authority to impose mitigation under RCW  
14 43.21C.060 may require mitigation measures for clean energy projects  
15 only to address the environmental impacts that are attributable to  
16 and caused by a proposal.

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

19 NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS. (1) The department of  
20 ecology shall prepare nonproject environmental impact statements,  
21 pursuant to RCW 43.21C.030, that assess and disclose the probable  
22 significant adverse environmental impacts, and that identify related  
23 mitigation measures, for each of the following categories of clean  
24 energy projects, and colocated battery energy storage projects that  
25 may be included in such projects:

26 (a) Green electrolytic or renewable hydrogen projects;

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

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

31 (2) The scope of a nonproject environmental review shall be  
32 limited to the probable, significant adverse environmental impacts in  
33 geographic areas that are suitable for the applicable clean energy  
34 type. The department of ecology may consider standard attributes for  
35 likely development, proximity to existing transmission or  
36 complementary facilities, and planned corridors for transmission  
37 capacity construction, reconstruction, or enlargement. The nonproject  
38 review is not required to evaluate geographic areas that lack the

1 characteristics necessary for the applicable clean energy project  
2 type.

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

7 (i) Historic and cultural resources;

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

10 (iii) Landscape scale habitat connectivity and wildlife migration  
11 corridors;

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

14 (v) Cultural resources and elements of the environment relevant  
15 to tribal rights, interests, and resources including tribal cultural  
16 resources, and fish, wildlife, and their habitat;

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

18 (vii) Military installations and operations.

19 (b) The nonproject environmental impact statements must identify  
20 measures to avoid, minimize, and mitigate probable significant  
21 adverse environmental impacts identified during the review. These  
22 include measures to mitigate probable significant adverse  
23 environmental impacts to elements of the environment as defined in  
24 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,  
25 interests, and resources, including tribal cultural resources, as  
26 identified in RCW 70A.65.305, and overburdened communities as defined  
27 in RCW 70A.02.010. The department of ecology shall consult with  
28 federally recognized Indian tribes and other agencies with expertise  
29 in identification and mitigation of probable, significant adverse  
30 environmental impacts including, but not limited to, the department  
31 of fish and wildlife. The department of ecology shall further specify  
32 when probable, significant adverse environmental impacts cannot be  
33 mitigated.

34 (4) In defining the scope of nonproject review of clean energy  
35 projects, the department of ecology shall request input from  
36 agencies, federally recognized Indian tribes, industry, stakeholders,  
37 local governments, and the public to identify the geographic areas  
38 suitable for the applicable clean energy project type, based on the  
39 climatic and geophysical attributes conducive to or required for  
40 project development. The department of ecology will provide

1 opportunities for the engagement of tribes, overburdened communities,  
2 and stakeholders that self-identify an interest in participating in  
3 the processes.

4 (5) The department of ecology will offer early and meaningful  
5 consultation with any affected federally recognized Indian tribe on  
6 the nonproject review under this section for the purpose of  
7 understanding potential impacts to tribal rights and resources,  
8 including tribal cultural resources, archaeological sites, sacred  
9 sites, fisheries, or other rights and interests in tribal lands and  
10 lands within which an Indian tribe or tribes possess rights reserved  
11 or protected by federal treaty, statute, or executive order. Certain  
12 information obtained by the department of ecology under this section  
13 is exempt from disclosure consistent with RCW 42.56.300.

14 (6) Final nonproject environmental review documents for the clean  
15 energy projects identified in subsection (1) of this section, where  
16 applicable, shall include maps identifying probable, significant  
17 adverse environmental impacts for the resources evaluated. Maps must  
18 be prepared with the intention to illustrate probable, significant  
19 impacts, creating a tool that may be used by project proponents,  
20 tribes, and government to inform decision making. The maps may not be  
21 used in the place of surveys on specific parcels of land or input of  
22 a potentially affected federally recognized Indian tribe regarding  
23 specific parcels.

24 (7) Following the completion of a nonproject review subject to  
25 this section, the interagency clean energy siting coordinating  
26 council created in section 101 of this act must consider the findings  
27 and make recommendations to the legislature and governor on potential  
28 areas to designate as clean energy preferred zones for the clean  
29 energy project technology analyzed, and any taxation, regulatory,  
30 environmental review, or other benefits that should accrue to  
31 projects in such designated preferred zones.

32 (8) Nothing in this section prohibits or precludes projects from  
33 being located outside areas designated as clean energy preferred  
34 zones.

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

37 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)  
38 A lead agency conducting a project-level environmental review under  
39 this chapter of a clean energy project identified in section 302(1)

1 of this act must consider a nonproject environmental impact statement  
2 prepared pursuant to section 302 of this act in order to identify and  
3 mitigate project-level probable significant adverse environmental  
4 impacts.

5 (2) (a) Project-level environmental review conducted pursuant to  
6 this chapter of a clean energy project identified in section 302(1)  
7 of this act must begin with review of the applicable nonproject  
8 environmental impact statement prepared pursuant to section 302 of  
9 this act. The review must address any probable significant adverse  
10 environmental impacts associated with the proposal that were not  
11 analyzed in the nonproject environmental impact statements prepared  
12 pursuant to section 302 of this act. The review must identify any  
13 mitigation measures specific to the project for probable significant  
14 adverse environmental impacts.

15 (b) Lead agencies reviewing site-specific project proposals for  
16 clean energy projects under this chapter shall use the nonproject  
17 review described in this section through one of the following methods  
18 and in accordance with WAC 197-11-600, as it existed as of January 1,  
19 2023:

20 (i) Use of the nonproject review unchanged, in accordance with  
21 RCW 43.21C.034, if the project does not cause any probable  
22 significant adverse environmental impact not identified in the  
23 nonproject review;

24 (ii) Preparation of an addendum;

25 (iii) Incorporation by reference; or

26 (iv) Preparation of a supplemental environmental impact  
27 statement.

28 (3) Clean energy project proposals following the recommendations  
29 developed in the nonproject environment review completed pursuant to  
30 section 302 of this act must be considered to have mitigated the  
31 probable significant adverse project-specific environmental impacts  
32 under this chapter for which recommendations were specifically  
33 developed unless the project-specific environmental review identifies  
34 project-level probable significant adverse environmental impacts not  
35 addressed in the nonproject environmental review.

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

38 PROHIBITION ON DEMONSTRATION OF NEED. During project review of a  
39 project to construct or improve facilities for the generation,

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

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

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

15 NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED  
16 STORAGE SITING. (1) The Washington State University energy program  
17 shall conduct a process to identify issues and interests related to  
18 siting pumped storage projects in Washington state, to support  
19 expanded capacity to store intermittently produced renewable energy,  
20 such as from wind and solar, as part of the state's transition from  
21 fossil fuel to 100 percent clean energy. The Washington State  
22 University energy program may decide to include within the process's  
23 scope the colocation of pumped storage with wind or solar energy  
24 generation. The goal of the process is to identify and understand  
25 issues and interests of various stakeholders and federally recognized  
26 Indian tribes related to areas where pumped storage might be sited,  
27 providing useful information to developers of potential projects, and  
28 for subsequent environmental reviews under the state environmental  
29 policy act.

30 (2) In carrying out this process, the Washington State University  
31 energy program shall provide ample opportunities for the engagement  
32 of federally recognized Indian tribes, local governments and special  
33 purpose districts, land use and environmental organizations, and  
34 additional stakeholders that self-identify as interested in  
35 participating in the process.

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

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

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

14 NEW SECTION. **Sec. 307.** (1)(a) The department must consult with  
15 stakeholders from rural communities, agriculture, natural resource  
16 management and conservation, and forestry to gain a better  
17 understanding of the benefits and impacts of anticipated changes in  
18 the state's energy system, including the siting of facilities under  
19 the jurisdiction of the energy facility site evaluation council, and  
20 to identify risks and opportunities for rural communities. This  
21 consultation must be conducted in compliance with the community  
22 engagement plan developed by the department under chapter 70A.02 RCW  
23 and with input from the environmental justice council, using the best  
24 recommended practices available at the time. The department must  
25 collect the best available information and learn from the lived  
26 experiences of people in rural communities, with the objective of  
27 improving state implementation of clean energy policies, including  
28 the siting of energy facilities under the jurisdiction of the energy  
29 facility site evaluation council, in ways that protect and improve  
30 life in rural Washington. The department must consult with an array  
31 of rural community members, including: Low-income community and  
32 vulnerable population members or representatives; legislators; local  
33 elected officials and staff; those involved with agriculture,  
34 forestry, and natural resource management and conservation; renewable  
35 energy project property owners; utilities; large energy consumers;  
36 and others.

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

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

3 (i) Energy facility siting under the jurisdiction of the energy  
4 facility site evaluation council, including placement of new  
5 renewable energy resources, such as wind and solar generation, pumped  
6 storage, and batteries or new nonemitting electric generation  
7 resources, and their contribution to resource adequacy;

8 (ii) Production of hydrogen, biofuels, and feedstocks for clean  
9 fuels;

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

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

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

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

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

21 (2)(a) The department must complete a report on rural clean  
22 energy and resilience that takes into consideration the consultation  
23 with rural stakeholders as described in subsection (1) of this  
24 section. The report must include recommendations for how policies,  
25 projects, and investment programs, including energy facility siting  
26 through the energy facility site evaluation council, can be developed  
27 or amended to more equitably distribute costs and benefits to rural  
28 communities. The report must include an assessment of how to improve  
29 the total benefits to rural areas overall, as well as the equitable  
30 distribution of benefits and costs within rural communities.

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

34 (i) Direct, indirect, and induced jobs in construction and  
35 operations;

36 (ii) Financial returns to property owners;

37 (iii) Effects on local tax revenues and public services, which  
38 must include whether any school districts had a net loss of resources  
39 from diminished local effort assistance payments required under  
40 chapter 28A.500 RCW and impacts to public safety, the 911 emergency



1 communications system, mental health, criminal justice, and rural  
2 county roads;

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

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

7 (vi) Potential forms of economic development assistance and  
8 impact mitigation payments; and

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

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

16 (d) By December 1, 2024, the department must submit a final  
17 report on rural clean energy and resilience to the joint committee on  
18 energy supply, energy conservation, and energy resilience created in  
19 RCW 44.39.010 and the appropriate policy and fiscal committees of the  
20 legislature.

21 (3) For the purposes of this section, "department" means the  
22 department of commerce.

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

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

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

29 The definitions in this section apply throughout this chapter  
30 unless the context clearly requires otherwise.

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

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

36 NEW SECTION. **Sec. 310.** (1) The committee shall review the  
37 report produced by the department of commerce under section 307 of

1 this act and consider any policy or budget recommendations to reduce  
2 impacts and increase benefits of the clean energy transition for  
3 rural communities, including mechanisms to support local tax revenues  
4 and public services.

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

8 (3) Relevant state agencies, departments, and commissions,  
9 including the energy facility site evaluation council, shall  
10 cooperate with the committee and provide information as the chair  
11 reasonably requests.

12 (4) The committee shall report its findings and any  
13 recommendations to the energy facility site evaluation council and  
14 the committees of the legislature with jurisdiction over environment  
15 and energy laws by December 1, 2024. Recommendations of the committee  
16 may be made by a simple majority of committee members. In the event  
17 that the committee does not reach majority-supported recommendations,  
18 the committee may report minority findings supported by at least two  
19 members of the committee.

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

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

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

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

#### 27 **PART 4**

#### 28 **MISCELLANEOUS PROVISIONS**

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

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

33 NEW SECTION. **Sec. 403.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the  
35 remainder of the act or the application of the provision to other  
36 persons or circumstances is not affected.

Passed by the House April 14, 2023.  
Passed by the Senate April 8, 2023.  
Approved by the Governor May 3, 2023.  
Filed in Office of Secretary of State May 4, 2023.

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