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**SUBSTITUTE HOUSE BILL 1847**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Doglio, Reed, Parshley, and Ramel)

READ FIRST TIME 02/20/25.

1 AN ACT Relating to prioritizing the development of distributed  
2 alternative energy resources in targeted circumstances; amending RCW  
3 43.21C.530, 84.34.020, and 84.34.070; adding new sections to chapter  
4 43.21F RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that, as Washington  
7 works towards meeting its goals under the clean energy transformation  
8 act, we see many larger-scale renewable energy projects proposed.  
9 These projects can come with significant challenges. This act aims to  
10 incentivize the development of renewable energy on lands and  
11 structures that have minimal disruption to natural habitats,  
12 communities, cultural resources, and agriculture. This could include  
13 small-scale wind energy developments, solar energy developments on  
14 landfills, structures, and other developed lands, and the placement  
15 of solar panels on agricultural lands that ensure the continued  
16 viability of agriculture alongside energy production. Incentivizing  
17 distributed energy can help us protect our rich agricultural lands  
18 and meet our clean energy goals.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F  
20 RCW to read as follows:

1 (1) The following categories of clean energy facilities and  
2 nonproject activities that reduce environmental impacts are  
3 determined to constitute distributed energy priorities:

4 (a) Solar energy generation and accompanying energy storage and  
5 electricity transmission and distribution, including vehicle charging  
6 equipment, when such facilities are located:

7 (i) Within the easement, right-of-way, or existing footprint of  
8 electrical transmission facilities;

9 (ii) Within the easement, right-of-way, or existing footprint of  
10 a state highway or city or county road;

11 (iii) On structures over or enclosing irrigation canals, drainage  
12 ditches, and irrigation, agricultural, livestock supply, stormwater,  
13 or wastewater reservoirs or similar impoundments of state waters that  
14 do not host salmon or steelhead trout runs;

15 (iv) On elevated structures over parking lots;

16 (v) On lands within a transportation facility, including but not  
17 limited to airports and railroad facilities, or restricted from other  
18 developments by transportation facility operations;

19 (vi) On closed or capped portions of landfills;

20 (vii) On reclaimed or former surface mine lands or contaminated  
21 sites that have been remediated under chapter 70A.305 RCW or the  
22 federal comprehensive environmental response, compensation, and  
23 liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes  
24 an asphalt or soil cap;

25 (viii) As an agrivoltaic facility; and

26 (ix) On existing structures;

27 (b) Wind energy generation that is not a utility-scale wind  
28 energy facility as defined in RCW 70A.550.010, and accompanying  
29 energy storage and transmission and distribution equipment, including  
30 vehicle charging equipment;

31 (c) Energy storage, when such facilities are located:

32 (i) Within the easement, right-of-way, or existing footprint of  
33 electrical transmission facilities;

34 (ii) Within the easement, right-of-way, or existing footprint of  
35 a state highway or city or county road;

36 (iii) On lands within a transportation facility, including but  
37 not limited to airports and railroad facilities, or restricted from  
38 other developments by transportation facility operations;

39 (iv) On closed or capped portions of landfills;

40 (v) On reclaimed or former surface mine lands;

1 (vi) On contaminated sites that have been remediated under  
2 chapter 70A.305 RCW or the federal comprehensive environmental  
3 response, compensation, and liability act (42 U.S.C. Sec. 9601 et  
4 seq.) in a manner that includes an asphalt or soil cap; and

5 (vii) On or in existing structures;

6 (d) Programs that reduce electric demand, manage the level or  
7 timing of electricity consumption, or provide electricity storage,  
8 renewable or nonemitting electric energy, capacity, or ancillary  
9 services to an electric utility and that are located on the  
10 distribution system, any subsystem of the distribution system, or  
11 behind the customer meter, including conservation and energy  
12 efficiency; and

13 (e) Programs that reduce energy demand, manage the level or  
14 timing of energy consumption, or provide thermal energy storage.

15 (2)(a) The department must review and, when appropriate,  
16 periodically recommend to the legislature additional types of  
17 distributed energy priorities for inclusion on the list under  
18 subsection (1) of this section.

19 (b) The identification of distributed energy priorities in  
20 subsection (1) of this section applies to the maximum extent  
21 practical under state and federal law, but does not include any  
22 development sites or activities prohibited under other state or  
23 federal laws.

24 (3)(a) For purposes of this section, "agrivoltaic facility" means  
25 a solar energy generation facility designed to be operated coincident  
26 with continued productive agricultural use of the land or the  
27 provision of ecological value, including habitat, or both.

28 (b) An agrivoltaic facility must not permanently or significantly  
29 degrade the agricultural or ecological productivity of the land after  
30 the cessation of the operation of the facility or involve the sale of  
31 a water right associated with the land.

32 (c) An agrivoltaics facility must not cause the temporary or  
33 permanent conversion of land from agricultural uses.

34 (d) An agrivoltaic facility must be designed to continue to  
35 produce marketable and measurable agricultural products or ecosystem  
36 services under a business plan that considers soils, infrastructure,  
37 support services, water access, succession, and market access of any  
38 agricultural products to be produced at the facility.

39 (e) For agrivoltaic facilities featuring continued agricultural  
40 production, solar panel arrays must be designed and installed in a

1 manner that supports the continuation of a viable farm operation for  
2 the life of the array, and must consider, as appropriate, the  
3 availability of light, water infrastructure for crops or animals, and  
4 panel height and spacing relative to farm machinery needs.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21F  
6 RCW to read as follows:

7 The department must assist in identifying, coordinating, and  
8 implementing opportunities for state government, in its role as a  
9 regulator, energy consumer, or possessor of property and assets  
10 capable of being used for distributed energy priorities, to  
11 facilitate the development of distributed energy priorities  
12 identified in section 2 of this act.

13 **Sec. 4.** RCW 43.21C.530 and 2023 c 230 s 301 are each amended to  
14 read as follows:

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

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

19 (b) "Alternative jet fuel" has the same meaning as defined in RCW  
20 43.158.010.

21 (c) "Associated facilities" has the same meaning as defined in  
22 RCW 43.158.010.

23 (d) "Clean energy product manufacturing facility" has the same  
24 meaning as defined in RCW 43.158.010.

25 (e) "Clean energy project" has the same meaning as defined in RCW  
26 43.158.010.

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

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

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

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

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

37 (i) "Renewable hydrogen" has the same meaning as defined in RCW  
38 80.50.020.

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

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

5 (l) "Storage facility" has the same meaning as defined in RCW  
6 80.50.020.

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

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

28 (c) Nothing in this subsection amends the requirements of RCW  
29 43.21C.033 as they apply to proposals that are not for clean energy  
30 projects and nothing in this subsection precludes the lead agency  
31 from allowing an applicant for a proposal that is not a clean energy  
32 project to follow application processes similar to or the same as the  
33 application processes identified in this subsection.

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

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

1 (i) Applicant agrees to a longer time limit; and  
2 (ii) Responsible official for the lead agency maintains an  
3 updated schedule available for public review.  
4 (c) For all clean energy projects that require the preparation of  
5 an environmental impact statement, the lead agency shall work  
6 collaboratively with applicants and all agencies that will have  
7 actions requiring review under this chapter to develop a schedule  
8 that shall:  
9 (i) Include a list of, and roles and responsibilities for, all  
10 entities that have actions requiring review under this chapter for  
11 the project;  
12 (ii) Include a comprehensive schedule of dates by which review  
13 under this chapter will be completed, all actions requiring review  
14 under this chapter will be taken, and the public will have an  
15 opportunity to participate;  
16 (iii) Be completed within 60 days of issuance of a determination  
17 of significance;  
18 (iv) Be updated as needed, but no later than 30 days of missing a  
19 date on the schedule; and  
20 (v) Be available for public review on the state environmental  
21 policy act register.  
22 (d) A lead agency may fulfill its responsibilities under this  
23 subsection with a coordinated project plan prepared pursuant to 42  
24 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under  
25 (c)(ii) of this subsection.  
26 (e) A failure to comply with the requirements in this subsection  
27 is not subject to appeal and does not provide a basis for the  
28 invalidation of the review by an agency under this chapter. Nothing  
29 in this subsection creates any civil liability for an agency or  
30 creates a new cause of action against an agency.  
31 (f) For clean energy projects, the provisions of this subsection  
32 are in addition to the requirements of RCW 43.21C.0311.  
33 (4) This subsection provides clarifications on the content of  
34 review under this chapter specific to clean energy projects.  
35 (a) In defining the proposal that is the subject of review under  
36 this chapter, a lead agency may not combine the evaluation of a clean  
37 energy project proposal with other proposals unless the:  
38 (i) Proposals are closely related; or  
39 (ii) Applicant agrees to combining the proposals' evaluation.

1 (b) An agency with authority to impose mitigation under RCW  
2 43.21C.060 may require mitigation measures for clean energy projects  
3 only to address the environmental impacts that are attributable to  
4 and caused by a proposal.

5 (5) (a) (i) The department of ecology must evaluate, in light of  
6 the goals of chapters 70A.45 and 19.405 RCW, the appropriateness of  
7 tools available under this chapter to expedite the processes required  
8 by this chapter, for actions that are unlikely to result in  
9 significant adverse environmental impacts, for:

10 (A) Distributed energy priorities identified in section 2 of this  
11 act; and

12 (B) Construction of structures with a footprint of less than  
13 1,000 square feet that support solar energy generation panels or  
14 other equipment, if the construction of such structures is not  
15 undertaken wholly or partly on lands covered by water.

16 (ii) For each specific category of such projects, the department  
17 of ecology may, as appropriate:

18 (A) Categorically exempt from compliance with this chapter  
19 certain projects. The department may limit the availability of a  
20 categorical exemption under this subsection to development actions  
21 that do not exceed certain size thresholds or that are carried out in  
22 specified circumstances or locations; or

23 (B) Identify circumstances where it is appropriate to identify  
24 standardized mitigation, which may include best management practices,  
25 for potential adverse environmental impacts. When implemented, the  
26 standardized mitigation developed under this subsection must be  
27 considered in a threshold determination under this chapter.

28 (b) In adopting rules under this subsection, the department must:

29 (i) Consider the nonproject environmental impact statements  
30 prepared pursuant to RCW 43.21C.405 and 43.21C.535;

31 (ii) Consider applicable rules, guidance, and environmental best  
32 management practices adopted by federal agencies, and the scope and  
33 applicability of any similar exemptions under federal statute and  
34 rules to environmental review requirements under the national  
35 environmental policy act, 42 U.S.C. Sec. 4321 et seq.; and

36 (iii) Request and consider input from agencies, federally  
37 recognized Indian tribes, stakeholders, local governments, and the  
38 public in a manner that satisfies the obligations of chapters 34.05  
39 and 70A.02 RCW, including to assist in the identification of the

1 suitable scope, size thresholds, circumstances, best management  
2 practices, and mitigation measures.

3 (c) In recognition of the state's regulatory requirements, which  
4 include 2030 and 2045 compliance deadlines for clean energy under  
5 chapter 19.405 RCW, and the urgency of the need to facilitate energy  
6 infrastructure developments, the department must aspire to finalize  
7 the adoption of rules under this subsection by January 1, 2028, so as  
8 to enable the application of the categorical exemptions and  
9 standardized mitigation under this subsection as quickly as possible.

10 **Sec. 5.** RCW 84.34.020 and 2014 c 125 s 2 are each amended to  
11 read as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) (a) "Open space land" means (~~((a) any~~): (i) Any land area so  
15 designated by an official comprehensive land use plan adopted by any  
16 city or county and zoned accordingly(~~((r))~~); or (~~((b))~~) (ii) any land  
17 area, the preservation of which in its present use would (~~((i))~~) (A)  
18 conserve and enhance natural or scenic resources, or (~~((ii))~~) (B)  
19 protect streams or water supply, or (~~((iii))~~) (C) promote  
20 conservation of soils, wetlands, beaches or tidal marshes, or  
21 (~~((iv))~~) (D) enhance the value to the public of abutting or  
22 neighboring parks, forests, wildlife preserves, nature reservations  
23 or sanctuaries or other open space, or (~~((v))~~) (E) enhance recreation  
24 opportunities, or (~~((vi))~~) (F) preserve historic sites, or (~~((vii))~~)  
25 (G) preserve visual quality along highway, road, and street corridors  
26 or scenic vistas, or (~~((viii))~~) (H) retain in its natural state  
27 tracts of land not less than one acre situated in an urban area and  
28 open to public use on such conditions as may be reasonably required  
29 by the legislative body granting the open space classification(~~((r))~~);  
30 or (~~((e))~~) (iii) any land meeting the definition of farm and  
31 agricultural conservation land under subsection (8) of this section.  
32 As a condition of granting open space classification, the legislative  
33 body may not require public access on land classified under  
34 (~~((b) (iii))~~) (a) (ii) (C) of this subsection for the purpose of  
35 promoting conservation of wetlands.

36 (b) "Open space land" includes land on which an agrivoltaic  
37 facility designed to be operated coincident with the provision of  
38 ecological value, including habitat, is located.

39 (2) "Farm and agricultural land" means:



1 (a) Any parcel of land that is (~~twenty~~) 20 or more acres or  
2 multiple parcels of land that are contiguous and total (~~twenty~~) 20  
3 or more acres:

4 (i) Devoted primarily to the production of livestock or  
5 agricultural commodities for commercial purposes;

6 (ii) Enrolled in the federal conservation reserve program or its  
7 successor administered by the United States department of  
8 agriculture; or

9 (iii) Other similar commercial activities as may be established  
10 by rule;

11 (b)(i) Any parcel of land that is five acres or more but less  
12 than (~~twenty~~) 20 acres devoted primarily to agricultural uses,  
13 which has produced a gross income from agricultural uses equivalent  
14 to, as of January 1, 1993:

15 (A) (~~One hundred dollars~~) \$100 or more per acre per year for  
16 three of the five calendar years preceding the date of application  
17 for classification under this chapter for all parcels of land that  
18 are classified under this subsection or all parcels of land for which  
19 an application for classification under this subsection is made with  
20 the granting authority prior to January 1, 1993; and

21 (B) On or after January 1, 1993, (~~two hundred dollars~~) \$200 or  
22 more per acre per year for three of the five calendar years preceding  
23 the date of application for classification under this chapter;

24 (ii) For the purposes of (b)(i) of this subsection, "gross income  
25 from agricultural uses" includes, but is not limited to, the  
26 wholesale value of agricultural products donated to nonprofit food  
27 banks or feeding programs;

28 (c) Any parcel of land of less than five acres devoted primarily  
29 to agricultural uses which has produced a gross income as of January  
30 1, 1993, of:

31 (i) (~~One thousand dollars~~) \$1,000 or more per year for three of  
32 the five calendar years preceding the date of application for  
33 classification under this chapter for all parcels of land that are  
34 classified under this subsection or all parcels of land for which an  
35 application for classification under this subsection is made with the  
36 granting authority prior to January 1, 1993; and

37 (ii) On or after January 1, 1993, (~~fifteen hundred dollars~~)  
38 \$1,500 or more per year for three of the five calendar years  
39 preceding the date of application for classification under this  
40 chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this

1 subsection will, upon any transfer of the property excluding a  
2 transfer to a surviving spouse or surviving state registered domestic  
3 partner, be subject to the limits of (b) (i) (B) and (c) (ii) of this  
4 subsection;

5 (d) Any parcel of land that is five acres or more but less than  
6 (~~twenty~~) 20 acres devoted primarily to agricultural uses, which  
7 meet one of the following criteria:

8 (i) Has produced a gross income from agricultural uses equivalent  
9 to two hundred dollars or more per acre per year for three of the  
10 five calendar years preceding the date of application for  
11 classification under this chapter;

12 (ii) Has standing crops with an expectation of harvest within  
13 seven years, except as provided in (d) (iii) of this subsection, and a  
14 demonstrable investment in the production of those crops equivalent  
15 to one hundred dollars or more per acre in the current or previous  
16 calendar year. For the purposes of this subsection (2) (d) (ii),  
17 "standing crop" means Christmas trees, vineyards, fruit trees, or  
18 other perennial crops that: (A) Are planted using agricultural  
19 methods normally used in the commercial production of that particular  
20 crop; and (B) typically do not produce harvestable quantities in the  
21 initial years after planting; or

22 (iii) Has a standing crop of short rotation hardwoods with an  
23 expectation of harvest within (~~fifteen~~) 15 years and a demonstrable  
24 investment in the production of those crops equivalent to (~~one~~  
25 ~~hundred dollars~~) \$100 or more per acre in the current or previous  
26 calendar year;

27 (e) Any lands including incidental uses as are compatible with  
28 agricultural purposes, including wetlands preservation, provided such  
29 incidental use does not exceed (~~twenty~~) 20 percent of the  
30 classified land and the land on which appurtenances necessary to the  
31 production, preparation, or sale of the agricultural products exist  
32 in conjunction with the lands producing such products. Agricultural  
33 lands also include any parcel of land of one to five acres, which is  
34 not contiguous, but which otherwise constitutes an integral part of  
35 farming operations being conducted on land qualifying under this  
36 section as "farm and agricultural lands";

37 (f) The land on which housing for employees and the principal  
38 place of residence of the farm operator or owner of land classified  
39 pursuant to (a) of this subsection is sited if: The housing or  
40 residence is on or contiguous to the classified parcel; and the use

1 of the housing or the residence is integral to the use of the  
2 classified land for agricultural purposes;

3 (g) Any land that is used primarily for equestrian related  
4 activities for which a charge is made, including, but not limited to,  
5 stabling, training, riding, clinics, schooling, shows, or grazing for  
6 feed and that otherwise meet the requirements of (a), (b), or (c) of  
7 this subsection; (~~or~~)

8 (h) Any land primarily used for commercial horticultural  
9 purposes, including growing seedlings, trees, shrubs, vines, fruits,  
10 vegetables, flowers, herbs, and other plants in containers, whether  
11 under a structure or not, subject to the following:

12 (i) The land is not primarily used for the storage, care, or  
13 selling of plants purchased from other growers for retail sale;

14 (ii) If the land is less than five acres and used primarily to  
15 grow plants in containers, such land does not qualify as "farm and  
16 agricultural land" if more than (~~twenty-five~~) 25 percent of the  
17 land used primarily to grow plants in containers is open to the  
18 general public for on-site retail sales;

19 (iii) If more than (~~twenty~~) 20 percent of the land used for  
20 growing plants in containers qualifying under this subsection (2)(h)  
21 is covered by pavement, none of the paved area is eligible for  
22 classification as "farm and agricultural land" under this subsection  
23 (2)(h). The eligibility limitations described in this subsection  
24 (2)(h)(iii) do not affect the land's eligibility to qualify under (e)  
25 of this subsection; and

26 (iv) If the land classified under this subsection (2)(h), in  
27 addition to any contiguous land classified under this subsection, is  
28 less than (~~twenty~~) 20 acres, it must meet the applicable income or  
29 investment requirements in (b), (c), or (d) of this subsection; or

30 (i) Lands identified in (a) through (h) of this subsection on  
31 which an agrivoltaic facility designed to be operated coincident with  
32 continued productive agricultural use of the land is located.

33 (3) "Timberland" means any parcel of land that is five or more  
34 acres or multiple parcels of land that are contiguous and total five  
35 or more acres which is or are devoted primarily to the growth and  
36 harvest of timber for commercial purposes. Timberland means the land  
37 only and does not include a residential homesite. The term includes  
38 land used for incidental uses that are compatible with the growing  
39 and harvesting of timber but no more than (~~ten~~) 10 percent of the  
40 land may be used for such incidental uses. It also includes the land

1 on which appurtenances necessary for the production, preparation, or  
2 sale of the timber products exist in conjunction with land producing  
3 these products.

4 (4) "Current" or "currently" means as of the date on which  
5 property is to be listed and valued by the assessor.

6 (5) "Owner" means the party or parties having the fee interest in  
7 land, except that where land is subject to real estate contract  
8 "owner" means the contract vendee.

9 (6) (a) "Contiguous" means land adjoining and touching other  
10 property held by the same ownership. Land divided by a public road,  
11 but otherwise an integral part of a farming operation, is considered  
12 contiguous.

13 (b) For purposes of this subsection (6):

14 (i) "Same ownership" means owned by the same person or persons,  
15 except that parcels owned by different persons are deemed held by the  
16 same ownership if the parcels are:

17 (A) Managed as part of a single operation; and

18 (B) Owned by:

19 (I) Members of the same family;

20 (II) Legal entities that are wholly owned by members of the same  
21 family; or

22 (III) An individual who owns at least one of the parcels and a  
23 legal entity or entities that own the other parcel or parcels if the  
24 entity or entities are wholly owned by that individual, members of  
25 his or her family, or that individual and members of his or her  
26 family.

27 (ii) "Family" includes only:

28 (A) An individual and his or her spouse or domestic partner,  
29 child, stepchild, adopted child, grandchild, parent, stepparent,  
30 grandparent, cousin, or sibling;

31 (B) The spouse or domestic partner of an individual's child,  
32 stepchild, adopted child, grandchild, parent, stepparent,  
33 grandparent, cousin, or sibling;

34 (C) A child, stepchild, adopted child, grandchild, parent,  
35 stepparent, grandparent, cousin, or sibling of the individual's  
36 spouse or the individual's domestic partner; and

37 (D) The spouse or domestic partner of any individual described in  
38 (b) (ii) (C) of this subsection (6).

1 (7) "Granting authority" means the appropriate agency or official  
2 who acts on an application for classification of land pursuant to  
3 this chapter.

4 (8) "Farm and agricultural conservation land" means either:

5 (a) Land that was previously classified under subsection (2) of  
6 this section, that no longer meets the criteria of subsection (2) of  
7 this section, and that is reclassified under subsection (1) of this  
8 section; or

9 (b) Land that is traditional farmland that is not classified  
10 under chapter 84.33 or 84.34 RCW, that has not been irrevocably  
11 devoted to a use inconsistent with agricultural uses, and that has a  
12 high potential for returning to commercial agriculture.

13 (9) "Agrivoltaic facility" has the same meaning as described in  
14 section 2 of this act.

15 **Sec. 6.** RCW 84.34.070 and 2017 c 251 s 1 are each amended to  
16 read as follows:

17 (1)(a) When land has once been classified under this chapter, it  
18 must remain under such classification and must not be applied to  
19 other use except as provided by subsection (2) of this section for at  
20 least ten years from the date of classification. It must continue  
21 under such classification until and unless withdrawn from  
22 classification after notice of request for withdrawal is made by the  
23 owner. After the initial (~~ten~~) 10-year classification period has  
24 elapsed, notice of request for withdrawal of all or a portion of the  
25 land may be given by the owner to the assessor or assessors of the  
26 county or counties in which the land is situated. If a portion of a  
27 parcel is removed from classification, the remaining portion must  
28 meet the same requirements as did the entire parcel when the land was  
29 originally granted classification under this chapter unless the  
30 remaining parcel has different income criteria. Within seven days the  
31 assessor must transmit one copy of the notice to the legislative body  
32 that originally approved the application. The assessor or assessors,  
33 as the case may be, must withdraw the land from the classification  
34 and the land is subject to the additional tax and applicable interest  
35 due under RCW 84.34.108. Agreement to tax according to use is not  
36 considered to be a contract and can be abrogated at any time by the  
37 legislature in which event no additional tax or penalty may be  
38 imposed.

1 (b) If the assessor gives written notice of removal as provided  
2 in RCW 84.34.108(1)(d)(i) of all or a portion of land classified  
3 under this chapter before the owner gives a notice of request for  
4 withdrawal in (a) of this subsection, the provisions of RCW 84.34.108  
5 apply.

6 (2)(a) The following reclassifications are not considered  
7 withdrawals or removals and are not subject to additional tax under  
8 RCW 84.34.108:

9 (i) Reclassification between lands under RCW 84.34.020 (2) and  
10 (3);

11 (ii) Reclassification of land classified under RCW 84.34.020 (2)  
12 or (3) or designated under chapter 84.33 RCW to open space land under  
13 RCW 84.34.020(1);

14 (iii) Reclassification of land classified under RCW 84.34.020 (2)  
15 or (3) to forestland designated under chapter 84.33 RCW; and

16 (iv) Reclassification of land classified as open space land under  
17 RCW 84.34.020(1)(~~e~~) (a)(iii) and reclassified to farm and  
18 agricultural land under RCW 84.34.020(2) if the land had been  
19 previously classified as farm and agricultural land under RCW  
20 84.34.020(2).

21 (b) Designation as forestland under RCW 84.33.130(1) as a result  
22 of a merger adopted under RCW 84.34.400 is not considered a  
23 withdrawal or removal and is not subject to additional tax under RCW  
24 84.34.108.

25 (3) Applications for reclassification are subject to applicable  
26 provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33  
27 RCW.

28 (4) The income criteria for land classified under RCW  
29 84.34.020(2) (b) and (c) may be deferred for land being reclassified  
30 from land classified under RCW 84.34.020 (1)(~~e~~) (a)(iii) or (3),  
31 or chapter 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of  
32 up to five years from the date of reclassification.

33 (5) The addition of an agrivoltaic facility does not constitute a  
34 reclassification for purposes of this chapter and is not considered a  
35 withdrawal or removal subject to additional tax under RCW 84.34.108.

36 NEW SECTION. **Sec. 7.** If any provision of this act or its  
37 application to any person or circumstance is held invalid, the

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

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