

**RCW 43.158.150 Clean energy coordinated permitting process— Tribal consultation and overburdened community engagement.** (1)(a) The department of ecology must offer early, meaningful, and individual consultation with any affected federally recognized Indian tribe on designated clean energy projects participating in the coordinated permitting process for the purpose of understanding potential impacts to tribal rights, interests, and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the coordinated permitting process by early identification of tribal rights, interests, and resources, including tribal cultural resources, potentially affected by the project, and identifying solutions, when possible, to avoid, minimize, or mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit reviews.

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

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

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

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

(iv) The notification and offer to initiate discussion must be documented by the department of ecology and delivered to the department of archaeology and historic preservation, the department of fish and wildlife, and to the affected federally recognized Indian tribe or tribes. If the discussions pursuant to (b)(ii) of this

subsection do not occur, the department of ecology must document the reason why the discussion or discussions did not occur.

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

(2) The department of ecology must identify overburdened communities, as defined in RCW 70A.02.010, which may be potentially affected by clean energy projects participating in the coordinated permitting process. The department of ecology must verify these communities have been meaningfully engaged in the regulatory processes in a timely manner by participating agencies and their comments considered for determining potential impacts. [2023 c 230 § 209.]

**Findings—Intent—2023 c 230:** See note following RCW 43.394.010.