Interagency Clean Energy Siting Coordinating Council

Washington State Department of Commerce

DEPARTMENT OF ECOLOGY State of Washington

Clean Energy Project Siting

Engrossed Second Substitute House Bill 1216

INTERAGENCY SITING COUNCIL

October 1, 2024
Report to the Legislature
Directors Mike Fong and Laura Watson

v3.5

Acknowledgments

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Energy Facility Site Evaluation Council

Environmental Justice Council

Governor's Office of Indian Affairs

Governor's Office

Governor's Office for Regulatory Innovation and Assistance

Utilities and Transportation Commission

Washington Department of Fish and Wildlife

Washington State Department of Agriculture

Washington State Department of Transportation

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Executive summary

This is the Interagency Clean Energy Siting Coordinating Council's (Clean Energy Siting Council or Council) first annual legislative report since its establishment by House Bill 1216 in 2023 (Chapter 230, Laws of 2023). The legislation directs the 13-member council of state agencies, councils, offices, departments, and commissions to improve siting and permitting of clean energy projects in Washington state. The Council additionally acknowledges the critical need for increased transmission to support the growth of clean energy; it was not directed as a Council topic and so this report is without a transmission recommendation. The State Energy Strategy projected electricity needs in Washington would double by 2050 to achieve state greenhouse gas emissions limits and clean energy requirements. Additional growth of data processing centers and new uses of electricity in industry will likely increase amounts of electricity required to power the state.

The full legislative mandate requiring this report is available as Appendix D.

Recommendations

- **Continue funding**
- **Explore conflict resolution tools**

Plan statewide clean energy development

- Designate Clean Energy Preferred Zones
- Assess the feasibility of a Build-Ready Clean Energy Program
- Support local governments on battery energy storage systems
- Support agrivoltaics and dual-use research and development
- Develop a state-wide dashboard for clean energy development
- Integrate clean energy development into local government planning and zoning

Make clean energy siting more beneficial for communities

- Develop tax policy for clean energy facilities
- Develop Community Benefit Agreement tools
- Support workforce development

Improve tribal engagement and consultation

- Improve engagement and consultation with tribes
- Support tribes in identifying priorities through tribally led, equitable, proactive, and collaborative process

Improve permitting

- Promote pre-application discussions
- Continue development of mitigation guidance

Introduction

Legislative mandate

The Washington State Legislature passed HB 1216 (Chapter 230, Laws of 2023) to facilitate more efficient and effective siting and permitting of clean energy projects. The bill initiated a variety of activities and studies and established the Interagency Clean Energy Siting Coordinating Council (hereafter Clean Energy Siting Council or Council). HB 1216 directs the Clean Energy Siting Council to provide an annual report to the governor and the appropriate committees of the Legislature summarizing:

> Progress on efficient, effective, and responsible siting and permitting of clean energy projects; areas of additional work, including where clean energy project siting and permitting outcomes are not broadly recognized as efficient, effective, or responsible; resource needs; recommendations for future nonproject environmental impact statements for categories of clean energy projects; and any needed policy changes to help achieve the deployment of clean energy necessary to meet the state's statutory greenhouse gas emissions limits, chapter 70A.45 RCW, and the clean energy transformation act requirements, chapter 19.405 RCW, and to support achieving the state energy strategy adopted by the department of commerce.

This is the Clean Energy Siting Council's first annual report, due October 1, 2024.

Clean Energy Siting Council

The Clean Energy Siting Council members represent 13 state agencies, councils, offices, departments, and commissions (see Appendix B: Siting Council Members). The Department of Commerce (Commerce) and the Department of Ecology (Ecology) co-lead the Clean Energy Siting Council. The Council:

- Coordinates interagency information sharing
- Identifies actions to improve siting and permitting of clean energy projects
- Tracks federal government efforts to improve clean energy project siting and permitting
- Conducts outreach to parties interested in clean energy siting and permitting
- Supports independent state agency work to improve clean energy siting and permitting

Clean Energy Siting Council Goals

The Clean Energy Siting Council recommends clean energy siting and permitting improvements based on the following shared goals:

- Support an equitable clean energy transition
- Improve awareness through early dialogue and consolidated agency updates
- Improve siting and permitting processes
- Improve connecting projects to the electrical grid
- Improve developer knowledge and understanding of state requirements and resources for reduced conflict siting
- Conduct more preplanning to coordinate agency actions and planning
- Improve consultation and engagement with tribes
- Improve engagement with overburdened communities
- Improve local government coordination
- Promote more effective use of funding options
- Support federal agencies

- Improve understanding of the benefits of clean energy transition
- Raise visibility of Council efforts

Summary of Washington's energy, legislative, and policy context

Multiple laws and policies are focused on efforts to improve siting and permitting of clean energy projects to ensure the state transitions to 100% clean energy as the demand for energy grows. The 2021 State Energy Strategy[1] projects that achieving the state's greenhouse gas emissions limits and clean electricity requirements will require the state to roughly double the amount of electricity used by consumers and businesses in the state by 2050.[2] However, efficiently achieving this outcome requires expanding interstate transmission lines to carry an additional 38% of electricity from cheaper and more productive out-of-state sources. If transmission cannot be upgraded and sited in time, or if those out-of-state resources are not available, a greater share of the additional generation would have to be built in-state, at higher cost and with additional impacts. This highlights the crucial role of transmission — and transmission planning, siting, permitting and construction—in the state's energy landscape. Many states are now coordinating transmission planning with resource planning to ensure adequate and integrated electricity generation and transmission capacity.[3]

Climate change is also influencing energy supply and demand as extreme weather events become more severe. Recent examples include the January 2024 cold snap and the 2021 heat dome. In both cases, energy demand peaked beyond expectation, requiring significant and costly power purchases as well as increased greenhouse gas emissions due to higher levels of electricity produced via natural gas. If these climate patterns continue, Washington's energy demand forecast will likely increase. Recent droughts are also causing re-evaluation of hydroelectric reliability, as low river flows are constraining electricity production in some areas.[4] Risk of wildfires is leading to concerns of power shutoffs, especially during high-demand summer months.

Emerging technologies in Washington have the potential to address many supply concerns, but require siting and permitting consideration as well as changes in utility practices in managing the grid. There are a number of additional topics that influence Washington's energy context, including energy development in other states, transmission upgrades, energy markets, and the Six Sovereigns agreement.[5] However, Washington must be cautious about depending on future clean energy development in other states, especially as the topic has become increasingly contentious in some areas. In addition, transmitting out-of-state electricity to Washington will require additional in-state and interstate transmission capacity. Options include upgrading or expanding existing transmission lines, grid-enhancing technology improvements, and building new transmission lines. All will likely be required. Currently, western states and energy distributers are exploring a wholesale energy trading market intended to balance supply and demand across the energy grid at lower cost and increase reliability. However, transmission upgrades will be required to take advantage of most market benefits.

For an in-depth look at Washington's energy, legislative, and policy context, please see Appendix C.

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[1] 2021 State Energy Strategy
[2] WA SES EER DDP Modeling Final Report Page 29
[3] See, for example, Taking the Long View: The ISO's Collaborative Approach to Transmission Planning & Coordination
[4] Drought Impacts on Hydroelectric Power Generation in the Western United States. Turner, et. al. Pacific Northwest National Laboratory. 2022.
[5] FACT SHEET: Biden-Harris Administration Announces 10-Year Partnership with Tribes and States to Restore Wild Salmon, Expand Clean Energy Production, Increase Resilience, and Provide Energy Stability in the Columbia River Basin

Improvements in clean energy siting and permitting

Overview of HB 1216 activities and accomplishments

HB 1216 establishes specific activities to advance more efficient and effective siting and permitting of clean energy facilities. These activities include developing programs and a new permit pathway, conducting environmental reviews and studies, and formation of the Council. As of October 1, 2024, seven of these activities are completed, nine are ongoing, and two are planned. All activities are on schedule to be completed. Additional detail on these items is in the section below and in Appendix C.

Completed activities (as of October 1, 2024):

- Establish an interagency clean energy siting coordinating council
- Procure and submit independent evaluation of state agency siting and permitting processes for clean energy projects
- Design Clean Energy Coordinated Permitting Process (Chapter 43.158 RCW)
- Explore and report potential ideas for consolidated clean energy applications
- Explore and report potential ideas for consolidated clean energy permits
- Implement new clean energy coordinated permit process
- Update SEPA Rule to require environmental impact statement prepared within 24 months

Ongoing activities (as of October 1, 2024):

- Provide Council's annual report
- Identify actions to improve siting and permitting of clean energy projects
- Track federal efforts to improve clean energy project siting and permitting
- Update statewide predictive archaeological model
- Develop non-project environmental impact statements for:
    - Utility-scale solar energy projects
    - Utility-scale onshore wind energy projects
    - Green electrolytic or renewable hydrogen projects
- Develop clean energy projects of statewide significance application
- Conduct pumped storage siting study
- Develop rural clean energy study
- Create and update a list of contacts for federally recognized Indian tribes

Planned activities (as of October 1, 2024):

- Develop and provide clean energy project developers with a training on consultation and engagement processes for federally recognized Indian tribes
- Develop recommendations to the Legislature and governor on potential areas to designate as clean energy preferred zones for the clean energy project technology analyzed in nonproject reviews (Sec. 302 (7)). This activity is dependent on completion of nonproject Environmental Impact Statements, which are scheduled for completion June 30, 2025.

Agency clean energy activities and accomplishments

Though HB 1216 directs the Council agencies' work, the Council also used findings from three reports to inform and frame discussions, mainly the Low Carbon Energy Project Siting Improvement Study, the

Transmission Corridors Work Group (TCWG), and an independent evaluation by Beveridge and Diamond.[6] The reports, along with the agency activities listed below, were foundational to the Council recommendations.

Low Carbon Energy Project Siting Improvement Report 2022

In 2022, at the direction of the Legislature, the departments of Ecology and Commerce convened stakeholders and consulted with tribes to produce the Low Carbon Energy Project Siting Improvement Report (2022) about improving siting, environmental review, and permitting processes for low-carbon energy projects in Washington. The purpose of the report was to develop recommendations for potential improvements to the permitting processes for utility-scale projects and facilities in Washington. These processes would contribute to achieving greenhouse gas emissions limits established under RCW 70A.45.020,[7] while maintaining standards for the protection of the environment and the preservation of tribal consultation and treaty rights.[8] The Low Carbon Energy Project Siting Improvement Report proposed 73 recommendations to address the identified concerns. Many of the recommendations were implemented in HB 1216 or in other legislation or are proposed later in this report.

Transmission Corridors Work Group 2022

Under the Clean Energy Transformation Act (CETA) (Chapter 288, Laws of 2019), the Legislature directed the Energy Facility Site Evaluation Council (EFSEC) to convene a Transmission Corridors Work Group (TCWG) to review the need for new or upgraded transmission to meet Washington's renewable energy goals; identify where transmission and distribution facilities may need to be enhanced or constructed; and identify environmental review options and recommend ways to expedite review of transmission projects without compromising required environmental and cultural protection. The TCWG issued its final report[9] in October 2022. It identified several key themes, including strengthening regional and interregional planning; increasing staff resources in state agencies; enhancing resources for tribes; and promoting pre-application planning and coordination.

Siting and Permitting Reform in Washington: A Report to the Washington Department of Commerce[10]

HB 1216 directed Commerce to contract with an external party to carry out an independent evaluation of state agency siting and permitting processes for clean energy projects. The evaluation identified models used in other states and developed recommendations for improving Washington's processes to achieve more efficient and effective siting of clean energy projects. The authors conclude that Washington's permitting process requires significant reform and propose recommendations addressing funding and staffing, permitting oversight and information, SEPA, EFSEC, local government, and planning and development of generation and transmission facilities.

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[6] Siting and permitting reform in Washington
[7] RCW 70A.45.020: Greenhouse gas emissions reductions—Reporting requirements. (wa.gov)
[8] Chapter 43.21A.738 RCW Dispositions: DEPARTMENT OF ECOLOGY (wa.gov)
[9] Transmission Corridors Work Group Final Report
[10] Under RCW 43.394.020(3)(a) by Beveridge & Diamond, PC, 2024.

Joint agency actions

Supporting emerging technologies:

- Support implementation of dairy anaerobic digesters for electricity and renewable natural gas (RNG) generation to align with renewable fuel demand and state GHG reduction targets and strategies, including EV charging stations, informed by climate-smart agricultural policy specialists at Washington State Department of Agriculture (WSDA) and interagency workgroup between WSDA, Washington State Conservation Commission (WSCC), Ecology, and Washington State University (WSU) on state funding for digesters under the Climate Commitment Act (CCA).
- Support the conversion of fossil fuel-dependent agricultural equipment, including pumps and tractors, to electric modalities through addressing grid interconnection restrictions in rural areas. Funding for such equipment is supported by WSCC Sustainable Farms and Fields (SFF) program and is an underutilized strategy towards decarbonization. WSCC SFF program that administers funding for such electric farm equipment convenes a workgroup including WSDA, WSU, Ecology, and Natural Resources Conservation Service.
- Started the Geothermal Energy Collaborative Process (SB 6039; Chapter 350, Laws of 2024) involving Ecology, DNR, and Commerce. The collaborative process will begin in November 2024.
- Coordinated battery technology and Battery Energy Storage Systems (BESS) between Commerce, Ecology, Washington State Patrol and the State Fire Marshall; then met as an Electric Vehicle Battery work group to discuss issues.
- Regularly meet to participate in a nuclear fusion energy work group (HB 1924; Chapter 346, Laws of 2024) led by EFSEC and Washington Department of Health, and including Ecology, Commerce, Washington State Military Department, and Department of Labor & Industries. An initial report to the legislature is due December 2024.
- Executed funding for dual use solar, which included Commerce and Washington Department of Fish and Wildlife (WDFW), and incentivizes agrivoltaic pilot projects. Commerce received $10.6 million in the operating budget to support dual use solar projects. WDFW is talking with Kittitas County and irrigation districts; Yakama Nation has a pilot project with panels over irrigation canals.
- WSDA received $200,000 of the state taxable building construction account, in consultation with DNR, to perform an assessment of unused and underutilized state-owned, unimproved lands to determine the suitability of such lands for agricultural purposes, including grazing. In addition, if funds are available in January 2025, WSDA will receive $100,000 of the climate commitment account to incorporate into the assessment an examination of the use of such lands for agrivoltaics. For the purposes of this section, "agrivoltaics" means the use of land that intentionally integrates agriculture and solar photovoltaic energy generation.

Supporting clean energy workforce development with several Workforce Development for the Clean Energy Economy activities

- HB 1176 (Chapter 231, Laws of 2023). This law directs the Washington State Workforce Training and Education Coordinating Board to establish a Clean Energy Technology Workforce Advisory Committee to evaluate clean energy technology workforce needs and make recommendations to the governor and Legislature. It also creates a Washington Climate Corps Network to support climate-related service opportunities and train young adults and veterans to participate in the clean energy economy.
- Electrical Transmission Workforce Proviso, 2024 (SB 5950; Chapter 376, Laws of 2024). This legislative proviso directs Commerce to convene an electrical transmission workforce needs work group to provide advice, develop strategies, and make recommendations to the Legislature, state and local

agencies, and utilities on efforts to support the needs of Washington's electrical transmission industry workforce. It also requires Commerce to conduct a study of the employment and workforce education needs of the electrical transmission industry, focusing on line workers, line clearance tree trimmers, and substation technicians. The final report is due November 1, 2025.

- SB 5269 (Chapter 322, Laws of 2023): Washington Clean Manufacturing Leadership Act. This law directs Commerce to perform an independent assessment of opportunities to attract clean energy industries and directs Commerce to develop a proactive state industrial strategy by June 2025 to capture those industries.
- NetZero Northwest Workforce Analysis (2024). The workforce analysis described above is part of a four-state Pacific Northwest analysis. The workforce analysis is one component of an economy-wide deep decarbonization pathways analysis designed to help the states achieve net-zero emissions by 2050.

Developing training and guidance:

- Developed detailed guidelines for agencies and local governments to engage overburdened communities as part of planning processes in equitable and accessible ways.
- This included the Environmental Justice Council's work to implement HEAL Act, provided related grants in the 2023 budget, and considered how the state could assist tribes to develop clean energy projects.
- Built on existing tribal consultation and tribal treaty rights training by offering a variety of trainings to developers, state agencies and local governments; Governor's Office of Indian Affairs is developing training for developers with support from Department of Archeology and Historic Preservation (DAHP), Commerce, and EFSEC.
- Supported conducting archaeological surveys on public lands in concert with DAHP, DNR, WDFW and WSDOT; started an agreement with Central Washington University to continue these surveys.
- Developed guidance to support clean energy development for brownfields/developed lands using information from the 2022 Low-Carbon Energy Siting Report Recommendations and including Ecology, Commerce, WDFW, WSDOT, and the Environmental Protection Agency; started interagency discussions on developing guidance and tools.

Single agency actions

Commerce actions

Green Electrolytic Hydrogen

- **Green Electrolytic Hydrogen Report:** At the direction of the Legislature (SB 5910; Chapter 292, Laws of 2022), Commerce produced the report Green Electrolytic Hydrogen and Renewable Fuels: Recommendations for Deployment (January 2024).[11] The report found that Washington will have strong demand for green electrolytic hydrogen and renewable fuels as part of a net zero economy, and the state will need to rapidly scale up production of green hydrogen through electrolysis. The report also found that hydrogen and renewable fuels production must be developed in coordination with expanded renewable electricity capacity, and siting and permitting processes for green hydrogen will pose challenges.
- **$1 billion federal award for Pacific Northwest Hydrogen Hub**: In October 2023, the U.S. Department of Energy (DOE) selected the Pacific Northwest Hydrogen Association's $1 billion Hydrogen Hub proposal for award negotiations. The award is intended to accelerate the commercial-scale deployment of clean hydrogen and is expected to leverage more than $8 billion in public and private investments in Washington, Oregon and Montana. Commerce helped to establish the association and serves on its board. Phase I of the award from DOE was finalized in July 2024.

Ecology actions

Developed three programmatic environmental impact statements (PEISs)

- Green electrolytic or renewable hydrogen facilities
- Utility-scale solar energy facilities
- Utility-scale onshore wind energy facilities

The draft solar and onshore wind PEISs were released for public review on September 25, 2024, and the green hydrogen PEIS is planned for release in late 2024. All three PEISs are on track for completion by the legislative deadline of June 30, 2025.

These studies will identify the potential significant impacts for these types of facilities and propose mitigation to avoid and minimize impacts. Clean energy developers and local governments will be able to use these reports to reduce the overall timeline for project-level environmental reviews. These PEISs will also be considered by the Clean Energy Siting Council in developing Clean Energy Preferred Zones (see the first recommendation under Planning Statewide Clean Energy Development).

Explored consolidation of clean energy permits and applications

A legislative report exploring options for consolidating clean energy permit applications and permits was submitted by October 1, 2024. This report identifies seven initial ideas for consolidation, which could be done together or independently. Ecology led work on this report with input from other state, local and federal permitting agencies, and tribes. Additional work will be needed for these ideas with engagement from industry, local and state governments, tribes, communities, and interested parties.

[11] Green Electrolytic Hydrogen and Renewable Fuels: Recommendations For Deployment. Washington State Department of Commerce, January 5, 2024.

Implemented Clean Energy Coordinated Permitting Process (CPP)
Developed and implemented a new clean energy permit process as directed in chapter 43.158 RCW. The CPP provides clean energy developers a third permitting pathway in addition to the EFSEC and local-government led permitting processes. In the CPP, Ecology coordinates state and local environmental review and permitting processes for a clean energy project, and is a single point of contact for developers, agencies and interested parties. Ecology would be the lead for tribal consultation and verify that overburdened communities were engaged in the state and local processes. For each project, Ecology will develop a permitting work plan from start to finish, and a cost reimbursement process with a developer for work done by participating agencies.

SEPA Clean Energy EIS requirement
Requires SEPA EISs for clean energy projects be completed within 24 months of threshold determination, unless an extension is agreed upon. No further rulemaking was required for this action.

Quarterly tribal clean energy forums
Ecology is holding quarterly tribal clean energy forums to provide information, answer questions, and receive feedback.

Clean energy project assistance
Multiple clean energy developers have reached out to agency experts to learn about permit processes and discuss projects during the pre-application phase. Ecology programs are currently involved in environmental reviews and permitting processes for several projects, including for sustainable aviation fuel facilities, green hydrogen, green fertilizer, solar energy, and battery energy storage systems.

Clean Fuel Standard (CFS) guidance
CFS has a statutory requirement that the revenue generated for electric utilities from residential EV charging in their service territory must be invested back into transportation electrification in that territory. CFS credits to utilities could be millions of dollars each year and they have released guidance on how the utilities must invest those moneys.

Energy Facility Site Evaluation Council Actions

Establish EFSEC as an independent agency
Since becoming its own agency (E2SHB 1812; Chapter 183, Laws of 2022), EFSEC has sent three projects to the Governor's Office for approval; received and began working on three new applications for solar projects – one for a stand-alone battery energy storage facility, and a pre-application for a transmission line project, and continued to work toward certification of two other solar projects. All the solar applications currently before EFSEC are using the streamlined Solar Application, developed previously as a pilot project.

Develop a template for an interagency agreement to commission a Traditional Cultural Property (TCP) study from a tribe
The first interagency agreement for a TCP study was signed with the Yakama Nation in December 2023; it will be financed with CCA funds. EFSEC has already used the template to prepare two more interagency agreements, which are currently awaiting signature.

Prepare a non-project environmental impact statement for high-voltage electrical transmission facilities (those with a nominal voltage of 230kV or greater)
As directed by SSB 5165 (Chapter 229, Laws of 2023), EFSEC engaged a contractor in June 2024 to develop a PEIS for high-voltage electrical transmission facilities. Building on the work that Ecology has already

completed with the other related PEISs, EFSEC expects the preliminary draft of the PEIS to be ready by the end of 2024.

Department of Archeological and Historic Preservation actions

Updated archaeological predictive model

Conducted archaeological surveys on DNR land, in consultation with the affected tribes, to identify areas of least conflict for cultural resources

Department of Natural Resources Actions

On-demand clean energy parcel screening tool
In early 2023, DNR launched its Clean Energy Parcel Screening GIS-based tool to provide interested parties (such as clean energy developers) an on-demand tool showing select DNR land parcels that could serve as a starting point for continued conversations around potentially siting clean energy infrastructure (such as utility-scale onshore wind, solar) on public lands. After receiving additional stakeholder feedback following go-live, in early 2024 DNR removed select parcels from the screening tool based on tribal consultation and revised tool communication to reflect an evolving, more complicated Washington clean energy siting landscape.

Clean Energy land-access program realignment
In mid-2023, DNR transitioned responsibility for negotiating and developing land-access contracts (that is, land-use licenses, leases) for purposes of clean energy development on public lands from DNR's regions to division-level. The current Clean Energy Program, aligned with DNR's Product Sales and Leasing Division (PSLD), can now make more holistic determinations of whether to pursue potential clean energy development, based on department-wide priorities and comprehensive stakeholder feedback.

Commissioner's Order on Project Labor Agreements and Apprenticeship Utilization
The Commissioner of Public Lands' (CPL) Order 202303, signed August 2, 2023, requires project labor agreements (PLAs) for new clean energy projects sited on DNR stewarded lands. "New" clean energy projects refer to inquiries the DNR receives for consideration following the signing of CPL Order 202303 (August 2023 or later) that ultimately yield clean energy leases.

Environmental Justice Council actions

Advocate and support tribal sovereignty and self determination
Adopted a statement uplifting Tribal Sovereignty; Self Determination; and Free, Prior, and Informed Consent.

Governor's Office actions

Washington-specific consultation and public engagement process to guide the planning and evaluation of potential offshore wind development
In preparation for any potential future Bureau of Ocean Energy Management (BOEM) activity, the Governor's Office hired the consulting firm Gridworks to conduct a study with recommendations to the state. The consultant engaged with and incorporated feedback from tribes and coastal communities. The third-party report has recommendations on a Washington-specific consultation and public engagement process to guide the planning and evaluation of potential offshore wind development off Washington's coast. There are no active offshore wind projects at the time of this report, but two companies have submitted unsolicited lease

requests to the BOEM for areas in federal waters. BOEM has not yet taken action in response to those requests.

Governor's Office of Indian Affairs actions

Determined which tribal technical staff to contact for early project planning
Identified tribal technical staff as points of contact, and tribal preferences for being contacted about clean energy projects.

Washington Department of Fish and Wildlife actions

Developing guidelines to address wildlife and habitat concerns in solar and wind siting
New solar power guidelines and updated wind power guidelines will be available in late 2024.

Washington State Department of Agriculture actions

Worked with partner agencies to understand where WDSA can most support implementation of HB 1216
WDSA is currently determining which agency technical staff are the key points of contact concerning clean energy projects. WSDA's Equity Policy Advisor and the HEAL Team are involved in recommended engagement and support. WSDA is also preparing to utilize CCA funding in winter 2025, if available, to assess the use of agricultural lands for agrivoltaics as directed by the Legislature. For the purposes of study, "agrivoltaics" means the use of land that intentionally integrates agriculture and solar photovoltaic energy generation. Lastly, WSDA continues to support industry and partner agencies in the installation and application of anaerobic digesters at dairies across the state.

Washington State Department of Transportation actions

Complete legislative directives in HB 2124, including a final report to the Legislature by January 15, 2025

- Review applicable policies related to siting of clean energy facilities on WSDOT-owned rights of way.
- Consider opportunities to improve processes and allow for increased accommodation of clean energy infrastructure.

Utilities and Transportation Commission actions

Review of Investor-Owned Utility's regional generation and transmission planning
The Utilities and Transportation Commission requires regulated utilities to develop Integrated Resource Plans (IRPs), which must include assessments of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers.

Coordination with Commerce and Ecology on energy market development

State grants and funding

CCA tribal consultation grants

Ecology has awarded $16 million to tribes for the 2023-25 biennium. An additional $5 million will be disbursed Jan. 1, 2025, contingent on funding availability. Grants for tribal consultation provide support for federally

recognized tribes with lands and territories within Washington to engage in a range of climate-related activities. These include:

- Developing tribal clean energy projects
- Consulting on CCA funding decisions
- Engaging in clean energy siting processes
- Applying for state or federal grant funding
- Activities supporting climate resilience and adaptation

Clean Energy Grant Programs

In 2023, the Legislature allocated $10 million for a grant program for Commerce to support improvements and efficiencies in siting and permitting clean energy projects at the local level. Eligible recipients include tribes, local governments, community groups and others. The grants provide funds for planning, pre-development work, land-use studies, improved permit timeliness, and other related activities. To date, more than 240 applications were received.

Clean Energy Fund (CEF)

This grant program was established by Commerce in 2013 and funds the development, demonstration and deployment of clean energy technology. The program includes $4.7 million for Rural Clean Energy Innovation grants that support dairy digester bioenergy projects and other technologies. In 2024, the Rural Clean Energy Innovation grants were more than $1.8 million oversubscribed.

Yakama Power solar over canal project

In 2023, Yakama Power received a $20 million direct appropriation to support a 200 MW solar over canal project from Commerce. In 2024, this project was selected to receive up to $32 million through a federal award from the U.S. DOE. Yakama Power also received a competitive grant of $2.75 million through the Tribal Clean Energy grant program for dual-use solar to support pre-development and federal permitting work on this project.

Federal activities and funding

HB 1216 (Chapter 230, Laws of 2023) directs the Clean Energy Siting Council to track federal government efforts to improve clean energy project siting and permitting, including potential federal funding sources, and to identify state agency actions to improve coordination across state, local, and federal processes or to pursue supportive funding.

The Governor's Office funded and published a federal funding roadmap report: Washington Federal Funding Roadmap Project, Phase 1 Report.[12] The Siting Council identified the following federal efforts that are responsive to clean energy siting and permitting:

- Renewable Energy Siting through Technical Engagement and Planning (R-STEP): This U.S. DOE program expands the decision-making capacity and expertise of state and local governments around large-scale renewable energy planning, siting, and permitting. In 2024, ATNI, Commerce, The Nature Conservancy, and Audubon Washington submitted a proposal under this program.

[12] Washington Federal Funding Roadmap Project (2023)

- Transmission Siting and Economic Development program
- Energy Future Grants | Department of Energy
    - Bipartisan Infrastructure Law Section 40101(d): Formula Grants to States and Indian Tribes for Preventing Outages and Enhancing the Resilience of the Electric Grid (Grid Resilience Grants)
    - EPA Re-Powering America: Provides funding, incentives, and technical assistance
    - FERC Order 1920, related to long term transmission planning and use of grid-enhancing technologies

Opportunities for improving clean energy siting and permitting

HB 1216 directs the Clean Energy Siting Council's annual report to:

- Summarize areas of additional work, including where clean energy project siting and permitting outcomes are not broadly recognized as efficient, effective, or responsible
- Identify any needed policy changes to help achieve necessary clean energy deployment to meet the state's statutory greenhouse gas emissions limits (Chapter 70A.45 RCW) and the clean energy transformation act requirements (Chapter 19.405 RCW)
- Support achieving the State Energy Strategy (SES), adopted by Commerce

To these ends, the Council's discussions were informed by several reports and studies, especially the Low Carbon Energy Project Siting Improvement Report 2022, featuring multiple tribal forums and public meetings. A recently completed independent evaluation, Siting and Permitting Reform in Washington (PDF), required by HB 1216 about the state's siting and permitting challenges, successful models used in other states, and potential solutions was also considered. And third, input from interested parties about this report's specific, potential recommendations.

Risks to furthering improvement

The most common clean energy siting and permitting challenges the Council discussed reflect the multiple reports and concerns from interested parties that participating agencies often lack the resources needed to be effective in the siting, environmental review and permitting processes. This is a primary driver for the Council's recommendation to generally increase and continue the funding associated with clean energy work for tribes and agencies – both play a part in improving the communications and information sharing needed for efficient processes. The Council noted that state and local agencies, as well as tribes, often lack funding for expert staff to join project pre-application discussions early, and these early project meetings contribute to better siting and permitting outcomes for all parties.

Notably, the Low Carbon Energy Project Siting Improvement Report from 2022 summarizes the following tribal concerns:

- **Insufficient consultation, engagement, and information sharing with tribes.**

  Tribes express concerns about engagement and information sharing, lack of adequate time for tribal review, late notification and communication about potential projects, and a box-checking approach to government-to-government consultation during siting, environmental review and permitting processes. Many tribes note that agencies leading federal, state, and local environmental reviews and making permit decisions do not adequately use government-to-government consultation or engage tribes during these processes. As a result, tribal interests can be seen as a barrier to low-carbon energy projects because agencies insufficiently consider tribal treaty, natural and cultural resource impacts, even though tribes may support the state's clean energy and climate goals.

- **Insufficient tribal staff and expertise.**

Most tribes say they have insufficient tribal staff capacity to participate in consultation and engagement for planning and project review. The number of projects tribes are asked to review is increasing, but corresponding staff availability has not increased.

Further, the Council's recommended improvements align with the stated needs of participating agencies, clean energy proponents, and communities to better understand one another's concerns related to siting, environmental review and permitting of clean energy projects. As evidenced by highlighting the following siting and permitting process challenges, the Council's recommendations detail upfront planning activities to maintain greater process consistency, transparency, and information sharing to avoid and reduce project impacts. Additional concerns from the low carbon study that reflect the sentiments of other evaluations:

- **Siting and permitting of utility-scale clean energy facilities can be inefficient and time consuming.**

  Some say the time and cost needed to permit clean energy projects in Washington prevents projects from being built. Some developers say permitting takes longer in Washington than in other states and the processes vary too much between the local, state, and federal agencies. Developers raise concerns about the lack of predictability regarding process steps and timelines for project permitting. Some people express concern that overlapping federal, state, and local review and permitting processes can result in duplication of effort or inconsistent outcomes. Conversely, others say that a lack of information from developers about a project's technology, construction, or operations delay environmental review and permitting. The processes will work better if developers provide more comprehensive and accurate information early in the process and engage more proactively with agencies, tribes, and communities. When comprehensive information is provided, permitting paths are clarified.

- **Lack of information related to utility-scale clean energy projects.**

  Work is needed to make siting, environmental review, and permitting processes more transparent, equitable and accessible. Adequate information about a project reveals potential issues, critical for developing a clean energy project that avoids or reduces potential impacts. In addition, when information about multiple projects in each area of the state is unavailable, it is hard to determine cumulative impacts as well as impacts to overburdened communities. And there is currently no standard method to share project design changes or changes related to project impacts; even correct contact information and a method for early engagement with agencies, tribes and communities is missing from siting, environmental review and permitting processes.

- **Uncertainties over utility-scale clean energy project impacts and benefits.**

  Impacts from a utility-scale clean energy project may not be adequately analyzed due to missing baseline information, inadequate scientific understanding, lack of guidelines or inconsistent assessment methods. There is a lack of consolidated data sources for environmental review and permitting processes, which can result in inconsistent or inadequate analysis. Some information about clean energy projects may be sensitive and not shared publicly by developers; this lack of information is an issue for tribes and communities to adequately understand impacts to their resources. Local communities may perceive impacts outweighing the benefits from clean energy projects. Concerns arise about the lack of local benefits from clean energy projects, such as job creation, economic development, consistency of tax revenue streams and resulting impacts on local taxpayers. Best practices for engaging overburdened communities and considering environmental justice and equity issues are not well developed, understood or consistently applied. This limits a full understanding of community-level impacts and benefits.

- **Emerging technologies.**

  Lack of information about impacts is particularly acute for emerging technologies where agencies, tribes, and stakeholders may not have the technical expertise to adequately conduct and review impact assessments. In addition, local governments and state agencies may not have the expertise they need to review proposals involving new clean energy technology or unique operations and may require technical assistance to determine impacts.

- **Understanding of wildlife and habitat concerns**.

  Some geographic areas might have the highest potential for energy generation and could also be habitats for endangered and threatened species. These areas may also include tribal resources and interests. Developers initially may not be aware of the concerns for these areas and potential for impacts when siting and designing projects.

  While the Council's work focused on improving siting and permitting, some Council members are involved in transmission related conversations.

- **Transmission availability and transmission corridors.**

  Developers, agencies, and organizations raise concerns that transmission is not sufficiently available for clean energy projects. There is ongoing regional transmission work being done with agencies, utilities, and the Bonneville Power Administration to identify issues and conduct regional planning. EFSEC is in the process of developing a programmatic EIS for transmission siting. The Clean Energy Siting Council is coordinating with agencies working on these issues and recommendations will be developed through those processes.

Council recommendations

Recommendation: Continue funding

As stated earlier, Council members concur with findings from other studies and reports that adequate funding is needed for agencies, tribes, local governments, and communities to conduct effective planning, siting, environmental review, and permitting for the clean energy transition. The Clean Energy Siting Council intends this recommendation to support funding for these groups for ongoing clean energy efforts and the implementation of the recommendations in this document (also see "Tribal engagement and consultation recommendation" below).

Recommendation: Explore conflict resolution tools

Explore development of conflict resolution tools and processes, such as mediation, for use by state agencies, local governments, clean energy project developers, communities, and tribes. Early efforts at conflict resolution could help to reduce costly delays from extended litigation, and to increase community support and benefits from clean energy projects.

- Engage the impacted parties in developing conflict resolution tools and processes, to increase the chance of success.

- Conflict resolution tools and processes may vary based on the impacted parties and on the pathways for siting and permitting projects including EFSEC, Ecology's coordinated permit process, and local government-led processes.
- Such tools and processes should be considered in the context of other recommendations in this report and integrated with other siting improvement strategies to deliver the greatest benefit for community goals and successful clean energy project development.

Plan statewide clean energy development

These recommendations support planning for clean energy development using a variety of methods. Effective siting and design are the best ways to avoid negative impacts. Thoughtful planning requires robust engagement to identify issues, concerns, and potential benefits early.

Recommendation: Designate Clean Energy Preferred Zones

Establish a group to identify and designate Clean Energy Preferred Zones (CEPZs) to encourage clean energy development in appropriate areas. The process should include early engagement with tribes and communities, consideration of cumulative impacts, and development of incentives and benefits for zones.

Implementation

The Clean Energy Siting Council recommends creating a work group, advisory committee, or coordinated effort to consider the results of the PEISs in the development of CEPZs. This group would include interested parties such as agencies, developers, tribes, utilities, and communities potentially affected by the CEPZs.

The group would identify and use studies and available information to identify areas where CEPZs might be created in a transparent and public process. The group would build on WSU's Least Conflict Solar Siting Study,[13] where groups identified areas of high and low value. Other studies for use include WDFW's Shrub Steppe Restoration and Resiliency Initiative,[14] which identifies high-quality core habitat and lesser-quality habitat, as well as PEISs for utility-scale solar and onshore wind energy and green hydrogen facilities (on track to be completed by June 30, 2025[15]) and EFSEC's PEIS for transmission facilities over 230 kilovolts.[16] These studies identify potential significant impacts for types of clean energy technologies and mitigation measures. Chapter 43.21C.535 RCW requires the Council to use the PEISs and make recommendations on potential areas to designate;[17] potentially affected communities and tribes would be engaged early to identify issues and concerns and participate in the process, too. This process would include a detailed study of cumulative impacts and development of agreed-upon mitigation, using methods such as Community or Tribal Benefit Agreements.

The designation of CEPZs would not limit development in other areas; it would incentivize development in preferred zones. Project-level environmental review and permits would use the information in existing PEISs to identify potential impacts and develop mitigation plans as needed. Large scale planning, such as planned actions under SEPA, could be done for CEPZs and thereby reduce environmental review timelines. Areas already developed or disturbed could be prioritized for clean energy projects. Incentives for projects proposed

[13] Least-Conflict Solar Siting
[14] Washington Shrubsteppe Restoration and Resiliency Initiative
[15] Statewide Programmatic EIS
[16] EFSEC Programmatic EIS
[17] RCW 43.21C.535

in CEPZs could include priority contracting protocols, tax benefits, expedited project permitting, and community benefit planning support.

Resources and tools
Tools for screening sites include Washington's Environmental Health Disparities Map, WDFW's shrub steppe restoration and resiliency maps, site hazard assessments and rankings process (SHARP) tool used for brownfields, WSU Least Conflict Solar Siting study, Commerce's Rural Energy Study, and WSDOT's exploration of alternative uses of state highway ROWs (HB 2134).

Examples

- BLM created solar energy zones and variance areas and Klickitat County developed Energy Overlay Zones in 2005. The county conducted planning and developed zones which identify areas suitable for gas, wind, and solar energy development.

Recommendation: Assess the feasibility of a Build-Ready Clean Energy Program

Conduct a feasibility study for a Build-Ready Clean Energy Program (BRCEP). The BRCEP would identify underutilized locations that could be appropriate for clean energy projects and pre-permit these sites. Early engagement with communities and tribes would identify concerns, and after the sites are pre-permitted they can be auctioned to developers. If the BRCEP is determined to be feasible, develop a program design proposal.

Implementation
The Clean Energy Siting Council recommends conducting a feasibility study for a BRCEP with input from a work group or advisory committee of interested parties such as agencies, developers, tribes, utilities, and communities. If the program is determined to be feasible, Clean Energy Siting Council recommends developing a program design proposal for consideration by the Legislature.

The BRCEP concept draws from a New York State Build Ready Program[18] that seeks to make difficult and underutilized sites attractive for large-scale clean energy projects. To prevent competition with the private sector, the program focuses on previously disturbed sites that the private sector is unlikely to develop because of risk or cost. The program works with communities and the private sector to identify these sites through a nomination process, evaluates the sites for viability, manages the permitting, design and interconnection process, and engages with the host community to craft a customized benefits package. The program then auctions the site to private clean energy developers for construction and operation, with the goal of recouping costs. The program is intended to expand the potential locations for clean energy development, reduce risks and time for project developers, and ensure that the interests and concerns of tribes and communities are addressed. Potentially affected communities and tribes would be engaged early to identify issues and concerns, help select sites, and participate in the process. The program could develop a community benefits package, Community Benefits Agreement and/or Tribal Benefits Agreement as part of the process. The Build Ready idea could be incorporated into the CEPZ concept above. It would not limit development in other areas; it would incentivize development in pre-selected locations.

[18] New York State Build-Ready Program

Recommendation: Support local governments on battery energy storage systems

Establish a statewide stakeholder working group to collect information and tools for cities and counties to use in their zoning and policy development for battery energy storage system (BESS) facilities.

Implementation

Battery energy storage is an emerging technology and multiple utility-scale projects are being proposed in Washington. BESS facilities provide energy storage for the electrical grid and for stand-alone building or industrial operations including back up power. BESS facilities also vary in terms of technologies employed and land use considerations. Communities have raised concerns about zoning and planning for emergency response for these facilities. Local governments are challenged to develop local regulations or best practices needed to meet the increasing interest in energy projects that combine electric generation with emerging storage technologies.

The Clean Energy Siting Council recommends establishing a work group to identify best-practice local policy language and develop other tools at the state-wide level to support local governments. This group would include BESS experts, local planners, BESS developers, and other relevant stakeholders with expertise on the topic. The workgroup would address the range of issues and concerns related to battery energy storage, including safety, emergency response, zoning, siting, and permitting, and would develop a menu of options or templates for policies and regulations related to BESS facilities. This approach would provide tools for local jurisdictions to tailor to their needs.

Resources and tools

Commerce's Office of Energy Resilience & Emergency Management leads a workgroup addressing public safety and emergency response for energy facilities. This group is currently focused on electric vehicle battery safety and response as directed by SB 5812 (Chapter 189, Laws of 2024). Following submittal of its report (due January 1, 2025) this group intends to resume its work addressing safety and emergency response concerns and policies of BESS and other emerging technologies. Results generated from this group will inform the proposed BESS Siting Workgroup. This work could also include additional support for Commerce's Washington Energy Infrastructure Assessment Tool. This GIS decision-making tool is used for local government and special districts' security, safety, and emergency preparedness operations. In addition, Ecology is conducting non-project environmental impact statements for green hydrogen, solar and on-shore wind and each includes co-located BESS. These assessments will inform the discussions.

Recommendation: Support agrivoltaics and dual-use research and development

Agrivoltaics and dual-use projects provide options for maintaining, and possibly improving, agricultural lands and habitat while simultaneously allowing for development of solar and wind energy facilities. The Council recommends investments in research and development, pilot projects, and integration into planning and zoning.

Implementation

Agrivoltaics and dual-use solar are terms used for projects which co-locate solar photovoltaics with agricultural operations. Aquavoltaics is sometimes used to describe floating photovoltaics over water bodies.

Wind energy facilities can include multiple uses. The WSU Energy program[19] includes crop production, animal grazing, pollinator habitat, beekeeping, ecosystem services, and aquaculture in defining dual or multi-use. Wind energy facilities often include dual-use already. Co-location of solar or wind facilities and agriculture can add revenue to farming operations, provide shade and cover that improves crop yield and reduces damage from heat and frost, reduce irrigation requirements due to reduced evapotranspiration, and provide shade to grazing livestock.

The main barriers to implementing dual-use installations are high installation costs, uncertainty about the concept of colocation and how to implement it, and lack of information on which agricultural uses may be suitable. Pilot projects would provide valuable information for designing and siting dual-use projects. Proximity to transmission lines also influences financial viability for siting solar and wind facilities. Land use regulations that protect agricultural lands of long-term commercial significance can also impede co-location of solar or wind facilities.

The Clean Energy Siting Council recommends:

- Support research and development of dual-use applications in Washington. Support research by WSU Extension and others to identify which crops, animals, habitats, conditions and approaches can benefit from co-location with solar or wind installations.
- Support demonstrations, pilot projects, and technical assistance to enhance awareness of co-location opportunities and accelerate deployment.
- Continue grant funding to support research, planning, permitting and implementation of co-location efforts.
- Support integration of agrivoltaics and dual use technologies into local government planning and zoning to support agriculture and clean energy generation.
    - Develop solar-siting standards that local governments can use to determine when projects of specific characteristics do not constitute conversion of designated agricultural resource lands.
    - Support development of state-level agrivoltaics regulations that define appropriate facility types, design standards, and operational requirements compatible with maintaining a site's capacity for active agricultural production.
    - Support development of regulations to allow local governments to permit co-location of solar energy projects over constructed irrigation ponds or canals that reduce evaporation as an allowable use in designated agricultural resource lands.

Resources and tools

A Rural Energy Study directed by HB 1216 (Chapter 230, Laws of 2023) and led by Commerce may provide recommendations on this topic in December 2024. WSU's Institute for Northwest Energy Futures (INEF-WSU Tri-Cities) is researching the effectiveness of tying financial incentives to criteria for projects like sustainability and compliance monitoring.

Examples

- The Yakama Nation is leading a pilot project for solar panels over irrigation canals.
- Colorado State University's College of Agricultural Sciences Experiment Station is installing photovoltaic panels over livestock pens. It is researching use of PV panels deployed at low-density in native grasslands and small-scale agrivoltaics experiments testing panel transparencies on food production.

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[19] Dual-Use Solar Opportunities for Washington State. WSU Energy Program. 2023.

- Oregon State University's North Willamette Research and Extension Center (NWREC) had a dual-use installation on 160 acres near Portland to bridge the urban-rural divide.

Recommendation: Develop a state-wide dashboard for clean energy development

There is no single agency or database with information on clean energy development in Washington. This recommendation is to develop a publicly accessible data site for clean energy facilities and projects.

Implementation

A dashboard would provide a single location for anyone to find information about clean energy projects or facilities. This would include project information, contacts, and the status of environmental review and permitting timeline. It would identify the amount of energy or fuel being produced to use in calculations on meeting energy goals. The data would allow for tracking of trends for analysis and help identify issues for further improvement.

The dashboard would include maps and other tools to analyze and synthesize data as needed by the users. Information would be publicly available and easily accessible in a variety of forms.

The Clean Energy Siting Council recommends developing a clean energy dashboard to provide a single source for clean energy project and facility data.

Recommendation: Integrate clean energy development into local government planning and zoning

Provide support and tools for local governments to integrate the development of clean energy projects with planning and zoning requirements.

Implementation

The development of clean energy projects may, in some cases, be limited by provisions under the Growth Management Act[20] that require jurisdictions conserve lands they formally identify and designate as *agricultural lands of long-term commercial significance.*[21] Lands with other agriculture-related designations may be available for development. Transmission routes and other features that make energy projects feasible are often present on these designated agricultural lands of highest-resource value.

The Clean Energy Siting Council recommends:

- Authorize jurisdictions to factor clean energy siting needs within their designation processes for resource lands of long-term commercial significance and provide an outline of applicable factors or criterion.
- Specify energy-siting goals and policies for jurisdictions that must update comprehensive plans and development regulations under the GMA.
- Develop guidance for considering designation and clean energy development.

[20] RCW 36.70A.040
[21] RCW 36.70A.170

Make clean energy siting more beneficial for communities

Many communities, tribes, and local governments have said they are not seeing direct benefits from clean energy developments. The recommendations in this section make the development of clean energy projects more beneficial for the communities where they are sited. It is critical to engage potentially affected groups in equitable and accessible ways and support their participation in clean energy siting and development decision-making. The Environmental Justice Council has developed guiding principles for community engagement, which can help in these processes.

Recommendation: Develop tax policy for clean energy facilities

Establish a workgroup to study and develop state-level recommendations for local government tax policies for clean energy facilities.

Implementation

The tax implications of large clean energy facilities are a significant concern for local communities and governments. According to a Washington State Association of Counties (WSAC) 2023 report on the topic,[22] clean energy facilities can increase the overall assessed property value of a jurisdiction because new construction is not subject to the 1% annual property tax limit. The effect of this change is initially beneficial because it generates additional property tax revenue for counties and local taxing districts such as schools, fire, and hospitals. However, under current state tax code, the value of these facilities depreciates over time under personal property accounting rules. Because the overall tax assessment base does not decline with the depreciation, the overall tax burden may shift to other property owners. Over time, this may result in a declining tax burden for the clean energy facility and a shift of that tax burden to other properties.

In 2023, the Legislature passed SHB 1756 (Chapter 427, Laws of 2023), which sought to partially address this concern. Starting in 2025, this law creates a personal property exemption option from state property tax for wind and solar energy; and creates a production excise tax, and apportions that excise tax to counties, tribes and school districts where a clean energy facility is located. However, this mechanism affects only the state portion of property tax revenue, which is about 25% of the overall property tax amount.

Property taxes are not the only mechanism by which clean energy projects may contribute to the revenues of local jurisdictions. Sales and use taxes on the construction of clean energy facilities and taxes on the generation of electricity from these facilities are potential topics of analysis and discussion.

The Clean Energy Siting Council recommends convening a workgroup to study and make recommendations on tax policy for clean energy facilities. Members of the workgroup would include agencies, local governments, assessors, and others. Topics would include:

- Depreciation of clean energy facilities and shifting tax burden
- Categorization of clean energy equipment as personal property or another category
- Tax assessments for different or concurrent uses of land, such as when land could be used for agricultural purposes and for clean energy purposes
- Potential use of the income capitalization approach to value clean energy facilities to avoid shifting tax burden due to depreciating assets

[22] WSAC Clean Energy Property Tax Impacts

- Local option excise tax on the operation of new clean energy facilities
- Potential tax incentives for clean energy facilities, such as exemptions from the retail sales tax, use tax and leasehold excise tax.

Resources and tools
SHB 1756 and the WSAC report will be helpful references for this group.

Examples
- Maryland has opportunity zones for economically distressed communities where new investments, under certain conditions, may be eligible for preferential tax treatment.[23]

Recommendation: Develop Community Benefit Agreement tools

Community Benefit Agreements (CBAs) are legal contracts between developers and local governments or community groups that define benefits a developer will provide in exchange for support of a project. This recommendation is to develop templates and guidance on how to set up and implement CBAs for clean energy projects.

Implementation
CBAs can help mitigate project impacts and enhance the benefits communities receive from clean energy projects. They can be tailored to the community's needs and can include monetary and/or non-monetary benefits. Examples include annual payments, support for public works, and support and training for emergency response. Community Benefit Plans (CBPs) are a tool for identifying benefits and these may be included in CEPZs or other planning efforts.

The Clean Energy Siting Council recommends:

- Developing templates for CBAs, CBPs, and other agreements that could be adopted by local governments, agencies, communities, and project developers for clean energy projects.
- Developing guidance for communities and developers to create CBAs specific to their needs and identify benefits to communities from clean energy projects.

Resources and tools
The U.S. Department of Energy requires Community Benefits Plans (CBP) for nearly all federal funding under the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA). These CBPs address four policy priorities: engaging communities and labor; investing in America's workers through quality jobs; advancing diversity, equity, inclusion, and accessibility through recruitment and training; and implementing Justice40, which directs 40% of the overall benefits of certain federal investments to disadvantaged communities.

Examples
- The Columbia Law School has a database of CBAs for clean energy proposals from multiple states.

Recommendation: Support workforce development

Support apprenticeship programs, training through community colleges, vocational, and technical schools and certification programs to develop a clean energy workforce.

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[23] Maryland Opportunity Zone FAQ

Implementation
The Clean Energy Siting Council recommends developing a clean energy workforce that prioritizes and benefits vulnerable populations and overburdened communities by supporting registered apprenticeship programs, training through community colleges, vocational and technical schools, and certification and credentialing programs. Workforce development and training will be necessary to ensure that local community members benefit from new clean energy career opportunities. A 2024 clean energy workforce analysis for Washington projects that jobs supporting renewable electricity generation, clean fuels, transmission and distribution will grow. The report also emphasizes that an equitable transition is not guaranteed, with 51% of all clean energy jobs in 2030 projected in the lowest wage tier (>$30/hour). Strategic investments and policies will be needed to support equitable access to higher income jobs.

A 2021 Pew Research Center study[24] found that Black and Hispanic workers remain underrepresented in the science, technology, engineering and math (STEM) workforce compared with the share of all workers. Strategies to promote quality, good-paying, fair jobs include labor union pathways, prevailing wage requirements, apprentice utilization requirements, project labor agreements, support for pre-apprenticeship programs and wrap-around services such as child care and transportation, and others. These programs should be in communities where projects are sited and geared towards vulnerable populations and overburdened groups.

Resources and tools
Workforce development and training recommendations are expected to be developed by the Clean Energy Technology Workforce Advisory Committee, the Electrical Transmission Workforce Needs Work group, and the state industrial strategy (due in June 2025).

Improve tribal engagement and consultation

Early and meaningful engagement and consultation with tribes is critical for improving the siting and permitting of clean energy projects. Each tribe makes the determination of potential impacts to their rights, resources, and interests. These recommendations support improvements to engaging and consulting with tribes and supporting tribal-led processes.

Recommendation: Improve engagement and consultation with tribes

State and local agencies and developers should assess existing processes for tribal engagement and consultation. They should explore issues and opportunities for better including tribes in siting and permitting processes. The pre-application phase is an important and opportune time for this work, especially before making a significant investment.

Implementation
Tribal people, lands, rights and resources of significance may be impacted by clean energy projects. Some tribes have stated they are not involved early enough in siting, environmental review and permitting processes or in meaningful ways.

Under the Centennial Accord, state agencies maintain a government-to-government relationship with tribes. The Out of State Accord extends this to tribes located outside of the state with treaty reserved rights within state. The Centennial Accord establishes a process and responsibilities for consultation and collaboration as

[24] Pew Research Center, April, 2021, STEM Jobs; See Uneven Progress in Increasing Gender, Racial and Ethnic Diversity

part of this government-to-government relationship. State agencies may participate in consultation, engagement or information sharing with tribes. There is no equivalent consultation framework between tribes and local governments or with private industry. Local governments and industry might offer to engage or share information with tribes. Each tribe has its own sovereign government structure and expectations for formal government-to-government consultation and staff coordination and engagement.

Some developers may not be aware of tribal treaty rights, trust obligations or cultural resource protection requirements in Washington. Local governments might not have policies or procedures in place on how to engage with tribes for clean energy projects. Some tribes may prefer to engage with state agencies instead of developers or local governments.

Early and meaningful engagement and information sharing with tribes and consultation with agencies and tribes on a project or for planning may provide opportunities to discuss potential impacts and mitigation. Early engagement and awareness of issues in the process may allow impacts to be avoided or minimized in early project proposal stages. The pre-application phase is an important time to talk with tribes and hear their issues and concerns.

Tribes have raised concerns about resolving conflicts when tribal rights, resources, and interests are impacted by a clean energy project. HB 1753 (Chapter 253, Laws of 2022) established a process for mediation for Climate Commitment Act (CCA) funded activities, but this does not apply to all clean energy projects.

The Clean Energy Siting Council recommends:

- Early and meaningful engagement and information sharing with tribes and consultation between agencies and tribes on a clean energy project or for planning.
- During the pre-application phase, developers should explore options for avoiding areas in obvious conflict with tribes due to the presence of significant cultural resources as identified by the Department of Archaeology and Historic Preservation and the affected tribes.
- Use Indigenous knowledge to avoid or minimize harm and maintain access to traditional gathering areas, food sources, and cultural resources.
- Incentivize the co-development and co-ownership of clean energy projects with tribes directly impacted by their development.
- During tribal consultation, ensure developers and agencies incorporate Indigenous knowledge as provided by the tribes into project planning.[25]

Recommendation: Support tribes in identifying priorities through tribally-led, equitable, proactive and collaborative process

Support tribes in co-creating siting and permitting tools, templates, and resources for clean energy development in areas tribes identify as no- or low-conflict sites.

Implementation

The Affiliated Tribes of Northwest Indians, the Nature Conservancy, National Audubon Society, and the Department of Commerce applied for federal funding to implement Renewable Energy Siting through Technical

[25] This is in alignment with Council on Environmental Quality's National Environmental Policy Act new rule for including Indigenous knowledge in federal research, policy, and decision making.

Engagement and Planning (R-STEP). This funding would position tribal governments as leaders, facilitators, and co-creators of culturally-responsive siting and permitting resources, templates, and tools.

The R-STEP process would include a quarterly working group with a tribal collaborative and annual meetings with clean energy developers and tribal allies along with tribes. The intent is to:

- Co-create and maintain an online Tribal Clean Energy Hub with reference materials, important contacts, and tools
- Publish a toolkit for tribes within Washington's boundaries that includes a Tribal Benefit Agreement Template, guidance materials, case studies, open funding calls, and communication assets
- Launch a public GIS Decision Support and Spatial Analysis Tool to identify no- or low-conflict areas for potential clean energy development. This would not include confidential information around cultural resources.

In proactively sharing tribal siting priorities and consultation best practices, R-STEP is intended to make the permitting process faster and reduce conflict for developers that site within those places and practices. Studies may be needed to provide information for this process.

In the case that sufficient funding is not provided through the federal process, the Clean Energy Siting Council recommends funding to support this work.

Improve permitting

The recommendations in this section focus on two critical areas for improvement: the pre-application phase and the development of mitigation measures.

Recommendation: Promote pre-application discussions

Support outreach and guidance from state and local agencies about the pre-application phase and benefits.

Implementation

The pre-application phase is the most effective time for agencies and developers to discuss impacts, concerns, and mitigation options. A successful pre-application process sets up projects for more efficient environmental reviews and permitting by identifying issues early on and designing projects to avoid and minimize impacts.

State and local agencies can coordinate early with clean energy project developers through pre-application discussions. Some permits have formal pre-application processes, while others are informal. The pre-application phase is a critically important piece of the permitting process. Pre-application discussions can help developers avoid and reduce impacts by identifying potentially significant issues and strategies for mitigating impacts.

Developers may not be aware of the pre-application options. Outreach materials explain the purpose of these early discussions and how agency expertise can help developers identify and avoid impacts. Some developers may be hesitant to share information at an early stage due to lack of detail or concerns about confidentiality. Agencies can address issues by clearly identifying the type of information needed at the pre-application phase. Additional actions could include specifying information needs for types of clean energy.

The Clean Energy Siting Council recommends:

- Agencies should engage in a proactive outreach effort with the development community to encourage them to engage in early pre-application; this effort should be coordinated across agencies. Consideration should be given to creating a single website or portal to reach developers and encourage earlier engagement.
- Agencies should consider tailoring pre-application forms and process to address specific clean energy technology types.
- Agencies should focus pre-application discussions on areas where there could be significant impacts that could trigger an environmental impact statement (EIS) under the State Environmental Policy Act (SEPA). Early identification of these impacts would provide developers with the knowledge and tools to design projects that avoid and minimize impacts.

Resources and tools
Ecology's 2024 legislative report on options for consolidating clean energy permits and applications.

Recommendation: Continue development of mitigation guidance

Agencies should continue developing mitigation guidance for types of clean energy. They should proactively work with developers, tribes, interested parties, and communities to identify mitigation strategies to address concerns.

Implementation
Mitigation standards and guidance were developed for resources such as wetlands, and for clean energy projects such as solar energy. The approach and options for developing mitigation measures to avoid, minimize, reduce or compensate for impacts from a project may vary between jurisdictions and based on the resource affected.

The Washington State Department of Fish and Wildlife (WDFW) is in the process of updating solar and wind guidelines, which will include mitigation for impacts to habitat and species. These are planned for release in late 2024. Ecology is preparing three PEISs for utility-scale solar, utility-scale onshore wind, and green hydrogen. EFSEC is also preparing a PEIS for electrical transmission facilities with a nominal voltage of 230 kilovolts (kV) or greater. These PEISs will include mitigation measures for potentially significant impacts for these technology types. Implementation of CEPZs would include mitigation for those geographic areas.

The Clean Energy Siting Council recommends continuing to develop statewide mitigation strategies for significant impacts to support state and local agencies, developers, tribes, and the public to better understand mitigation options for clean energy projects and further enhance project environmental reviews and permitting.

Future mitigation measures could be developed for emerging clean energy technology types such as offshore wind, nuclear fusion, geothermal, pumped storage, and tidal energy. This could be done through planning or additional studies such as PEISs.

Resources and tools
Several workgroups and planning documents for clean energy technologies are being discussed and could be built upon. These might inform the need for future mitigation.

- Senate Bill 6039 (Chapter 350, Laws of 2024) – Promotes development of geothermal energy resources and directs collaborative process to identify opportunities and risks associated with the development of geothermal resources
- House Bill 1924 (Chapter 346, Laws of 2024) – Promotes the integration of fusion technology within state clean energy policies
- WSU-led Information Study for Pumped Storage Hydropower Siting for closed-loop facilities
- Gridworks report on Proposed Offshore Wind Engagement Framework for Washington state

Appendix A: Abbreviations

ATNI	Affiliated Tribes of Northwest Indians
BESS	Battery Energy Storage System
BIL	Bipartisan Infrastructure Law
BLM	Bureau of Land Management
BRCEP	Build-Ready Clean Energy Program
CBA	Community Benefit Agreements
CBP	Community Benefit Plans
CEPZ	Clean Energy Preferred Zone
COM	Washington State Department of Commerce
DAHP	Washington State Department of Archeology and Historic Preservation
DS	Determination of significance
DNR	Department of Natural Resources
DNS	Determination of nonsignificance
DOD	Department of Defense
DOE	U.S. Department of Energy
DOH	Washington State Department of Health
DS	Determination of Significance
EIS	Environmental Impact Statement
ECY	Washington State Department of Ecology
EFSEC	Energy Facility Site Evaluation Council
EJC	Environmental Justice Council
EPA	Environmental Protection Agency
FERC	Federal Energy Regulatory Commission
GIS	Geospatial Information System
GOIA	Governor's Office of Indian Affairs
GOV	Governor's Office
HB	House Bill
IRA	Inflation Reduction Act
L & I	Washington Labor and Industry
MIL	Washington State Military Department
ORIA	Governor's Office for Regulatory Innovation and Assistance
PV	Photovoltaic
RCW	Revised Code of Washington
ROW	Rights of Way

R-STEP	Renewable Energy Siting through Technical Engagement and Planning
SB	Senate Bill
SEPA	State Environmental Policy Act
SES	State Energy Strategy
SHARP	Site Hazard Assessments and Rankings Process
TCWG	Transmission Corridors Work Group
TNC	The Nature Conservancy
USDOE	United States Department of Energy
UTC	Utilities and Transportation Commission
WAC	Washington Administrative Code
WSAC	Washington State Association of Counties
WDFW	Washington Department of Fish and Wildlife
WSDA	Washington State Department of Agriculture
WSDOT	Washington State Department of Transportation
WSU	Washington State University

Appendix B: Interagency Clean Energy Siting Coordinating Council members

Co-lead Agencies

Department of Ecology: Joenne McGerr, Diane Butorac, Brenden McFarland, Abbey Wellemeyer, Alexandra Shin

Washington State Department of Commerce: Michael Furze, Glenn Blackmon, Brian Young, Nora Hawkins, Aaron Peterson, Dan Siemann

Council members:

Department of Archaeology and Historic Preservation: Allyson Brooks

Department of Natural Resources: Natalie Waid, Jim Woodward

Energy Facility Site Evaluation Council: Sonia Bumpus, Stewart Henderson

Environmental Justice Council: Jonathan Chen, Sierra Rotakhina

Governor's Office of Indian Affairs: Craig Bill

Governor's Office: Becky Kelley

Governor's Office for Regulatory Innovation and Assistance: Dan McConnon

Utilities and Transportation Commission: Payton Swinford, Heather Moline

Washington Department of Fish and Wildlife: Michael Garrity, Ben Blank

Washington State Department of Agriculture: Gary Bahr, Julia Terlinchamp

Washington State Department of Transportation: Ahmer Nizam, Gretchen Coker

Appendix C: State energy, legislative, and policy context

Washington's energy context

The 2021 State Energy Strategy[26] projects that achieving the state's greenhouse gas emissions limits and clean electricity requirements will require the state to roughly double by 2050 the amount of electricity used by consumers and businesses in the state.[27] This result is confirmed in a more recent *Net Zero Northwest* study by the Clean Energy Transition Institute, which also provides updated modeling results on the sources and amounts of required clean electricity. The most economically and technically efficient pathway for meeting Washington's 2050 electricity needs will require building at least 26.4 GW of additional electricity generation in-state while also importing at least 10.1 GW of electricity from out-of-state sources.[28] This efficient "core case" pathway assumes relatively unconstrained technology availability, moderate ability to build interstate and intra-state transmission, and aggressive electrification and efficiency of end uses that now rely on fossil fuels.

Recent forecasts by the electric industry suggest that these projections may understate the amount of electricity required to meet new uses of electricity in industry and data processing. While Washington's overall electricity consumption last year was less than 2019,[29] some utilities are reporting near-term increases in demand to serve new projects. Lack of access to generation or transmission resources could constrain the state's economic development goals as well as its clean energy transformation goals. In addition, increasingly extreme weather events exacerbated by climate change are causing periodic unanticipated peaks in energy demand statewide. While power supplies are generally sufficient to meet current load requirements, siting and permitting of additional in-state generation and transmission will be needed to meet growing demand.

Efficient siting and permitting are essential components of gaining additional electricity. However, success of the economically efficient pathway for meeting 2050 electricity needs assumes that interstate transmission lines can be expanded to carry an additional 38% of electricity from cheaper and more productive out-of-state sources. If transmission cannot be upgraded and sited in time, or if those out-of-state resources are not available, it is likely that additional generation would have to be built in-state, at higher cost and with additional impacts. This highlights the crucial role of transmission—and transmission planning, siting, permitting and construction—in the state's energy landscape. Many states are now coordinating transmission planning with resource planning to ensure adequate and integrated electricity generation and transmission capacity.[30]

In recent years, data centers, high-tech manufacturing and other large electricity-using facilities have proliferated in Washington. Many more facilities are proposed as communities seek to diversify their economy, boost regional competitiveness and guard against economic downturns. However, some areas of the state are

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[26] https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/

[27] WA SES EER DDP Modeling Final Report Page 29

[28] This number reflects the outcome from the model's most economically and technically efficient pathway, with assumptions including relatively unconstrained technology availability (including the ability to build transmission), aggressive electrification and efficiency, and no measures taken to reduce service demands. For a full list of the assumptions included in the Core Case modeling, see NZNW Energy Pathways Technical Report, pgs. 245-296, especially 250-251.

[29] Electricity Data Browser, U.S. Energy Information Administration. https://www.eia.gov/electricity/data/browser/#/topic/5?agg=0,1&geo=000000000001&endsec=vg&freq=Q&start=200101&end=202304&ctype=linechart&ltype=pin&rtype=s&maptype=0&rse=0&pin=

[30] See, for example, https://www.caiso.com/about/news/taking-the-long-view-the-isos-collaborative-approach-to-transmission-planning-coordination

finding it difficult to secure adequate power to support these new businesses. For example, the Tri-City Economic Development Council and the Port of Walla Walla report that, collectively, at least 11 companies have proposed large projects requiring more than 1,500 MW of consistently available electricity. If built, these projects would support an estimated 2,800 direct jobs and involve an estimated $9.9 billion in private capital investment. In addition, discussions are currently on-going for locating additional data centers that could require as much as 1,000 MW of electricity. Project sponsors are currently seeking electricity from available power suppliers to support these projects. However, generation and transmission limitations are impeding access to needed power for this business development.

The increased demand from data centers, high-tech manufacturing, and electrification is illustrated in the multi-state demand projections compiled by the Pacific Northwest Utilities Conference Committee (PNUCC).[31] The 2024 PNUCC Northwest Regional Forecast projected that electricity consumption could increase over 30% in the next 10 years. This compares to PNUCC's 2023 forecast which anticipated demand growth of 24%. The PNUCC's recent growth estimate represents an increase from about 23,700 average megawatts (aMW) in 2024 to about 31,100 aMW in 2033 (an increase of 7,400 aMW, which is equivalent to the electricity demand of about seven cities the size of Seattle). While an average annual increase of 3% may seem modest, it would be significant for a power system that has experienced very modest growth over the past 40 years, relying primarily on energy efficiency to offset growth in population and economic activity.

Climate change is also causing reconsideration of energy supply and demand as extreme weather events have become more severe at both ends of the spectrum. Recent examples include the January 2024 cold snap and the 2021 heat dome. In both cases, energy demand peaked beyond expectation, requiring significant and costly power purchases as well as increased greenhouse gas emissions due to higher levels of electricity produced via natural gas. If these climate patterns continue, Washington's energy demand forecast will likely increase. Recent droughts are also causing re-evaluation of hydroelectric reliability, as low river flows are constraining electricity production in some areas.[32] Risk of wildfires is leading to concerns of power shutoffs, especially during high-demand summer months.

Emerging technology has the potential to address many supply concerns but will also require siting and permitting consideration as well as changes in utility practices in managing the grid. Utility-scale battery energy storage systems are being deployed to store excess energy generation from wind, solar and other sources that can be distributed during high-demand periods such as morning and evening. Communities are currently evaluating siting, zoning, and emergency response considerations for these battery energy storage systems. Utilities are also exploring "virtual power plant" technology that enables grid operators to manage distributed resources (rooftop solar, home battery storage, electric vehicle batteries, etc.), creating a single grid-scale network that can function like a traditional power plant. Other efforts are underway to advance commercial development of small modular reactors and fusion technology, while geothermal energy, pumped storage, offshore wind and other technologies are also being explored. Any of these emerging technologies would, if they prove technically and commercially viable, present significant siting and permitting considerations.

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[31] PNUCC represents consumer-owned and investor-owned utilities in Washington, Oregon, Idaho and western Montana. https://www.pnucc.org/wp-content/uploads/2024-PNUCC-Northwest-Regional-Forecast-final.pdf.

[32] Drought Impacts on Hydroelectric Power Generation in the Western United States. Turner, et. al. Pacific Northwest National Laboratory. 2022. https://www.pnnl.gov/main/publications/external/technical_reports/PNNL-33212.pdf

Clean hydrogen is also a technology that is poised to grow but will require siting consideration and additional non-emitting electricity generation. In October 2023, Washington was selected to be eligible for up to $1 billion in federal Regional Clean Hydrogen Hub funding to accelerate the commercial-scale deployment of clean hydrogen, primarily for energy storage and to decarbonize heavy industry and transportation; and received the Phase 1 award in July of 2024 to officially launch. To support the state's hydrogen industry, Commerce's January 2024 Legislative report on deployment of green electrolytic hydrogen and hydrogen-derived fuels anticipates that Washington will install an additional 4.5 GW of electrolysis capacity by 2035. Based on updated modeling for the hydrogen legislative report, new in-state renewable electricity capacity is projected to grow by 3.4 GW by 2030, and 36.8 GW by 2050 as part of overall expansion of renewable and non-emitting generation and transmission in the state. Commerce's hydrogen report further states: "Where the 2021 State Energy Strategy envisioned using excess renewable generation to produce hydrogen, the level of hydrogen and renewable fuel production envisioned here cannot be met without new transmission and generation capacity. Supporting efforts to expedite and improve siting and permitting across the clean energy supply chain - in coordination with state entities, tribes, industry, communities and more - is critical."[33]

There are a number of additional topics that influence Washington's energy context, including energy development in other states, transmission upgrades, energy markets, and the "Six Sovereigns" agreement.[34] While Washington must double its clean energy generation by mid-century, the state can benefit from acquiring electricity from out-of-state, which can at times be generated more efficiently and at lower cost, for example wind energy in Montana and solar energy in California and Nevada. However, Washington must be cautious about depending on future clean energy development in other states, especially as the topic has become increasingly contentious in some areas. In addition, transmitting out-of-state electricity to Washington will require additional in-state and interstate transmission capacity. Options include upgrading or expanding existing transmission lines, grid-enhancing technology improvements, and building new transmission lines. All will likely be required. Currently, western states and energy distributers are exploring a wholesale energy trading market intended to balance supply and demand across the energy grid at lower cost and increase reliability. However, transmission upgrades will be required to take advantage of most market benefits. Finally, in December 2023, the Biden Administration announced a "Six Sovereigns" agreement to restore wild salmon populations, expand tribally sponsored clean energy production, and provide stability for communities that depend on the Columbia River System for agriculture, energy, recreation, and transportation. According to the agreement, the administration will support the development of at least one to three gigawatts of tribally sponsored clean energy projects. This could help replace electricity generated by the Lower Snake River Dams if Congress authorizes breaching them.[35]

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[33] Green Electrolytic Hydrogen and Renewable Fuels: Recommendations For Deployment. Washington Department of Commerce, January 5, 2024. https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Commerce%20Reports%20-%20Green%20Electrolytic%20Hydrogen%20Report%20final_74ae22a7-9a2b-4c27-b836-a576cce9bbb8.pdf

[34] https://www.whitehouse.gov/briefing-room/statements-releases/2023/12/14/fact-sheet-biden-harris-administration-announces-10-year-partnership-with-tribes-and-states-to-restore-wild-salmon-expand-clean-energy-production-increase-resilience-and-provide-energy-stability-i/

[35] https://www.whitehouse.gov/briefing-room/statements-releases/2023/12/14/fact-sheet-biden-harris-administration-announces-10-year-partnership-with-tribes-and-states-to-restore-wild-salmon-expand-clean-energy-production-increase-resilience-and-provide-energy-stability-i/?utm_medium=email&utm_source=govdelivery.

State legislative and policy context

Multiple laws and policies are focused on efforts to improve siting and permitting of clean energy projects to ensure the state transitions to 100% clean energy as the demand for energy grows. Efficient and effective siting and permitting of clean energy facilities and transmission is imperative for successful implementation.

Clean energy siting (HB 1216)

House Bill (HB) 1216[36] defines the work of the Interagency Clean Energy Siting Coordinating Council. Its legislative intent is to:

> Enable more efficient and effective siting and permitting of clean energy projects with policies and investments that protect the environment, overburdened communities, and tribal rights, interests, and resources, including cultural resources; bring benefits to the communities that host clean energy projects; and facilitate the rapid transition to clean energy that is required to avoid the worst impacts of climate change on Washington's people and places. (Sec. 1(2))
>
> The legislature intends to invest in, facilitate, and require better coordinated, faster environmental review and permitting decisions by state and local governments. (Sec. 1(4))
>
> Therefore, it is the intent of the legislature to support efficient, effective siting and permitting of clean energy projects through a variety of interventions, including:
>
> (a) Establishing an interagency clean energy siting coordinating council to improve siting and permitting of clean energy projects;
>
> (b) Creating a designation for clean energy projects of statewide significance[37];
>
> (c) Creating a fully coordinated permit process for clean energy projects[38];
>
> (d) Improving processes for review of clean energy projects under the state environmental policy act[39];
>
> (e) Requiring preparation of separate nonproject environmental impact statements for green electrolytic and renewable hydrogen projects and colocated battery energy storage facilities, onshore utility-scale wind energy projects and colocated battery energy storage facilities, and for solar energy projects and colocated battery energy storage facilities, with the goal of preparing these nonproject reviews by June 30, 2025 (Sec 302); and
>
> (f) Requiring the Washington State University energy program to complete by June 30, 2025, a siting information process for pumped storage projects in Washington. (Sec. 1(5)).

Modernizing the Energy Facility Site Evaluation Council (HB 1812)

HB 1812 (Chapter 183, Laws of 2022) [40] establishes that:

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[36] https://apps.leg.wa.gov/billsummary/?BillNumber=1216&Year=2024&Initiative=false
[37] Chapter 43.157 RCW
[38] Chapter 43.158 RCW
[39] Chapter 43.21C RCW
[40] https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1812-S2.SL.pdf?q=20240721180140

> It is the policy of the state of Washington to reduce dependence on fossil fuels by recognizing the need for clean energy in order to strengthen the state's economy, meet the state's greenhouse gas reduction obligations, and mitigate the significant near-term and long-term impacts from climate change while conducting a public process that is transparent and inclusive to all with particular attention to overburdened communities.
>
> The legislature finds that the in-state manufacture of industrial products that enable a clean energy economy is critical to advancing the state's objectives in providing affordable electricity, promoting renewable energy, strengthening the state's economy, and reducing greenhouse gas emissions.

At the same time, this law also reaffirmed that:

> It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods that the location and operation of all energy facilities and certain clean energy product manufacturing facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

In modifying EFSEC, HB 1812 stated:

> It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. In addition, it is the intent of the legislature to streamline application review for energy facilities to meet the state's energy goals and to authorize applications for review of certain clean energy product manufacturing facilities to be considered under the provisions of this chapter.

Among the modifications made by HB 1812, the law establishes EFSEC as a stand-alone entity of state government rather than as a unit of the UTC, and the bill expands EFSEC's authorities and operational independence. It makes the EFSEC siting and permitting pathway available to most clean energy proposals and a range of clean energy product manufacturing facilities. These include facilities and projects related to vehicles, vessels, and other modes of transportation; charging and fueling infrastructure for electric, hydrogen, or other types of vehicles; renewable or green electrolytic hydrogen; equipment and products used to produce energy from alternative energy resources; renewable natural gas facilities; refined biofuel facilities under 25,000 barrels per day; and equipment and products used at clean energy storage facilities. The law also gives developers of transmission lines the opportunity to seek site certification through EFSEC and enables EFSEC to conduct preliminary studies of potential clean energy projects.

HB 1812 establishes mechanisms for notification and engagement with tribes and city and county legislative authorities. Finally, the law expands the opportunity for expedited processing to any facility that would be covered under EFSEC siting laws.

Washington GHG reduction limits
Washington enacted legislation in 2008 that set a series of limits on the emission of GHGs within the state. Those limits were modified by legislation[41] enacted in 2020 to limit anthropogenic emissions of GHGs to achieve the following reductions for the state:

By 2020, reduce overall emissions of GHGs to 1990 levels, or 90.5 million metric tons
By 2030, reduce overall emissions of GHGs to 45% below 1990 levels, or 50 million metric tons
By 2040, reduce overall emissions of GHGs to 70% below 1990 levels, or 27 million metric tons
By 2050, reduce overall emissions of GHGs to 95% below 1990 levels, or 5 million metric tons and achieve net-zero GHG emissions

Climate Commitment Act (CCA)
The Legislature directs Ecology to design and implement a cap-and-invest program to reduce statewide greenhouse gas (GHG) emissions. This program sets a statewide emissions limit, or cap, then lowers that cap over time to ensure Washington meets the GHG reduction limits. The CCA[42] caps and reduces GHG emissions from Washington's largest emitting sources and industries, allowing businesses to find the most efficient path to lower carbon emissions.

The cap-and-invest program includes provisions to mitigate the impact on emissions-intensive, trade-exposed (EITE) industries and on electric and natural gas utilities and their customers. EITE industries are core industries, primarily manufacturing, that release large amounts of GHG emissions and face significant national or global competition for their products. The definition of clean energy projects includes EITE projects which reduce GHG emissions and do not degrade local air quality.

Clean Fuel Standard (CFS)
The CFS[43] curbs pollution from transportation, which is the largest source of GHG emissions in Washington. Within the transportation sector, personal cars and trucks account for almost half of overall emissions. Reducing the carbon intensity of the fuels that power these vehicles is an important tool for cutting GHG emissions and other types of air pollution. The CFS requires fuel suppliers to reduce their products' carbon intensity 20% below 2017 levels by 2038. This will cut GHG emissions by 4.3 million metric tons a year by 2038 and stimulate economic development in low carbon fuel production. The CFS works with the CCA and Zero Emission Vehicle standard to accelerate the transition to electric or fuel-cell vehicles. Multiple clean energy projects are being developed to meet the goals in these rules.

Clean Energy Transformation Act (CETA) for Electric Utilities
In 2019, the Washington State Legislature passed CETA[44], which requires that electric utilities reduce and eventually eliminate the use of fossil fuels in providing electricity to Washington customers. CETA applies to all electric utilities serving retail customers in Washington and sets specific milestones. By 2025, the law requires utilities to phase out coal-fired electricity from their state portfolios. By 2030, utility portfolios must be greenhouse gas emissions neutral, which means they may use limited amounts of electricity generated from natural gas if it is offset by renewable energy certificates or other alternative compliance methods. And by 2045, utilities must supply Washington customers with electricity that is 100% renewable or non-emitting with

[41] https://apps.leg.wa.gov/rcw/default.aspx?cite=70A.45.020
[42] https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Climate-Commitment-Act
[43] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.535
[44] https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5116-S2.SL.pdf?q=20210822161309

no provision for alternative compliance. CETA also directed the EFSEC to convene a Transmission Corridors Work Group (TCWG) to review the need for new or upgraded transmission to meet Washington's renewable energy goals. The TCWG issued a report in 2022.[45]

Healthy Environment for All (HEAL) Act

The HEAL Act was passed by the Legislature in 2021 (SB 5141, Chapter 314, Laws of 2021)[46]. The law provides a roadmap for integrating environmental justice into state agency operations and requires covered agencies (Departments of Ecology, Health, Natural Resources, Commerce, Agriculture, and Transportation, and the Puget Sound Partnership) to identify and address environmental health disparities in overburdened communities and for vulnerable populations. It requires covered agencies to develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and engagement and collaboration with federally recognized tribes. It also requires covered state agencies to adopt community engagement plans. The law establishes an Environmental Justice Council to advise covered agencies on incorporating environmental justice into agency activities. Key priorities of the HEAL Act include reducing exposure to environmental hazards within overburdened communities and tribal lands, and eliminating environmental and health disparities in disadvantaged, vulnerable and low-income populations. Covered agencies must focus expenditures toward creating environmental benefits for overburdened communities and vulnerable populations.

Recent legislation affecting clean energy siting and permitting

The following laws passed since 2023 improve siting and permitting:

HB 1756 (Chapter 427, Laws of 2023):[47] Supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities

Provides an option for wind and solar projects to remove state property tax from personal property that is used exclusively for the generation or storage of renewable energy over one MW, and instead levies a production excise tax that varies depending on specific factors. The revenues from the excise tax are deposited in a Renewable Energy Local Benefit Account and apportioned to tribes with lands potentially impacted and counties and school districts located in the same county as the facility.

HB 1924 (Chapter 346, Laws of 2024):[48] Promoting the integration of fusion technology within state clean energy policies

EFSEC and the Department of Health must establish a fusion energy work group of state agencies to identify and evaluate new and existing permitting, siting, licensing, and registration pathways for producing fusion energy. In developing the application for the designation of Clean Energy Projects of Statewide Significance (CEPSS), Commerce must include facilities that produce electricity with fusion energy as clean energy projects.

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[45] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.efsec.wa.gov/sites/default/files/181034/Final_TCWG_Report%20_2022_0801.pdf
[46] https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5141-S2.SL.pdf?q=20240721175913
[47] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/1756-S.SL.pdf?q=20240721180236
[48] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/1924-S.SL.pdf?q=20240721180310

HB 2039 (Chapter 347, Laws of 2024):[49] Modifying the appeals process for environmental and land use matters
Streamlines the appeals process for clean energy projects by consolidating appeals that go through the Pollution Control Hearings Board and Shoreline Hearings Board. It allows these appeals to go directly to the Court of Appeals.

HB 2134 (§ 214) (Chapter 310, Laws of 2024):[50] Use of state highway rights of way to accommodate clean energy projects.
As part of the 2024 Supplemental Transportation budget, a proviso directs Washington State Department of Transportation (WSDOT) to explore alternative uses of the state's highway rights of way, including renewable energy generation, electrical transmission and distribution projects, inductive charging in travel lanes, alternative fueling facilities, and other appropriate uses.

SSB 5165 (Chapter 229, Laws of 2023):[51] Electric power system transmission planning
Extends the planning horizon to 20 years (rather than 10 years) for regional generation and transmission capacity in electric utility integrated resource plans. It also requires large transmission projects to be permitted through EFSEC (rather than at the local level), and it requires EFSEC to prepare nonproject environmental impact statements for large electric transmission facilities in suitable geographic areas.

SB 6039 (Chapter 350, Laws of 2024):[52] Promoting development of geothermal energy resources
Directs the Washington Department of Natural Resources (DNR) to compile and maintain a geologic database and characterize the hazards of induced seismicity for high potential geothermal areas. It directs Ecology to lead a collaborative process, in consultation with other agencies, to identify opportunities and risks associated with the development of geothermal resources in three high priority locations. The process must include consultation with federally recognized tribes. It also creates a geothermal exploration cost-share grant program.

Least-conflict solar siting proviso 2021
Directs the Washington State University (WSU) Energy Program to carry out a least-conflict solar siting project with the goal of identifying areas where there would be the least amount of potential conflict in the siting of utility-scale solar photovoltaics developments. WSU led this effort from July 1, 2022, through June 30, 2023, resulting in least conflict mapping and a report[53].

[49] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/2039-S.SL.pdf?q=20240721180341
[50] https://app.leg.wa.gov/billsummary?BillNumber=2134&Initiative=false&Year=2023
[51] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5165-S.SL.pdf?q=20240721180501
[52] https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6039-S.SL.pdf?q=20240721180525
[53] https://www.energy.wsu.edu/documents/Least-Conflict_Solar_Siting_Report-WSUEP23-04--6-29.pdf

Appendix D: HB 1216

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

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

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

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

(2) The legislature intends to: Enable more efficient and effective siting and permitting of clean energy projects with policies and investments that protect the environment, overburdened communities, and tribal rights, interests, and resources, including cultural resources; bring benefits to the communities that host clean energy projects; and facilitate the rapid transition to clean energy that is required to avoid the worst impacts of climate change on Washington's people and places. There is no single solution for improved siting and permitting processes. Rather, a variety of efforts and investments will help bring together state, local, tribal, and federal governments, communities, workers, clean energy project developers, and others to succeed in this essential task. The legislature intends to make biennial appropriations to support tribal review of clean energy project proposals, permit applications, and environmental reviews, as well as tribal participation in up-front planning for clean energy projects, such as nonproject environmental impact statements for clean energy projects as described in this act.

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

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

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

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

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

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

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

(e) Requiring preparation of separate nonproject environmental impact statements for green electrolytic and renewable hydrogen projects and colocated battery energy storage facilities, onshore utility-scale wind energy projects and colocated battery energy storage facilities, and for solar energy projects and colocated battery energy storage facilities, with the goal of preparing these nonproject reviews by June 30, 2025; and (f) Requiring the Washington State University energy program to complete by June 30, 2025, a siting information process for pumped storage projects in Washington.

PART 1

INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL

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

(a) The office of the governor;

(b) The energy facility site evaluation council;

(c) The department of fish and wildlife;

(d) The department of agriculture;

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

(f) The department of archaeology and historic preservation;

(g) The department of natural resources;

(h) The department of transportation;

(i) The utilities and transportation commission;

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

(k) Staff from the environmental justice council; and

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

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

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

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

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

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

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

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

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

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

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

(h) Supporting the department of archaeology and historic preservation in updating the statewide predictive archaeological model to provide clean energy project developers information about where archaeological resources are likely to be found and the potential need for archaeological investigations; and

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

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

(3) The coordinating council shall:

(a) Advise the department of commerce in:

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

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

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

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

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

(b) Pursue development of a consolidated clean energy application similar to the joint aquatic resources permit application for, at a minimum, state permits needed for clean energy projects. The department of ecology shall lead this effort and engage with federal agencies and local governments to explore inclusion of federal and local permit applications as part of the consolidated application. The department may design a single consolidated application for multiple clean energy project types, may design separate applications for individual clean energy technologies, or may design an application for related resources. The department of ecology shall provide an update on its development of consolidated permit applications for clean energy projects to the governor and legislature by December 31, 2024. The consolidated permit application process must be available, but not required, for clean energy projects;

(c) Explore development of a consolidated permit for clean energy projects. The department of ecology shall lead this effort and, in consultation with federally recognized Indian tribes, explore options including a clean

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

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

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

PART 2

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Equipment and products used at storage facilities;

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

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

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

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

(a) Clean energy product manufacturing facilities;

(b) Electrical transmission facilities;

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

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

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

(d) Storage facilities;

(e) Facilities or projects at any facilities that exclusively or primarily process biogenic feedstocks into biofuel as defined in RCW 280.50.020;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Information regarding the location of the project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Overburdened communities; and

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

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

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

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

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

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

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

(2) Conduct an initial assessment of the proposed project review and permitting actions for coordination purposes as provided in section 205 of this act;

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

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

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

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

(7) Consult with potentially affected federally recognized Indian tribes as provided in section 209 of this act in support of the coordinated permitting process;

(8) Engage with potentially affected overburdened communities as provided in section 209 of this act;

(9) Manage a fully coordinated permitting process; and

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

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

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

(a) The expected type of environmental review;

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

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

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

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

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

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

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

(a) The project proponent must:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) An estimation of the timelines that will be used by each participating permit agency to make permit decisions, including the estimated time periods required to determine if the permit applications are complete

and to review or respond to each application or submittal of new information. In the development of this timeline, full attention must be given to achieving the maximum efficiencies possible through concurrent studies and consolidated applications, hearings, and comment periods; or

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

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

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

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

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

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

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

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

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

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

(b) For the purposes of this section, "expedite" means that a county or city will develop and implement a method to accelerate the process for permitting and environmental review. Expediting should not disrupt or otherwise delay the permitting and environmental review of other projects or require the county or city to incur additional costs that are not compensated.

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

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

(b) Expedite environmental review processing;

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

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

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

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

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

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

(4) For a fully coordinated permitting process, a project proponent may enter directly into a cost-reimbursement agreement similar to that described in subsection (1) of this section, to reimburse the costs of a federally recognized Indian tribe for reviewing and providing input on the siting and permitting of a clean energy project.

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

NEW SECTION. Sec. 209. 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.

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

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

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

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

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

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

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

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

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

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

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

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

PART 320

PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Proposals are closely related; or

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

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

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

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

(a) Green electrolytic or renewable hydrogen projects;

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

(c) Onshore utility-scale wind energy projects.

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

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

(i) Historic and cultural resources;

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

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

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

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

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

(vii) Military installations and operations.

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

(4) In defining the scope of nonproject review of clean energy projects, the department of ecology shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for the applicable clean energy project type, based on the climatic and geophysical attributes conducive to or required for project development. The department of ecology will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the processes.

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

(6) Final nonproject environmental review documents for the clean energy projects identified in subsection (1) of this section, where applicable, shall include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts, creating a tool that may be used by project proponents, tribes, and government to inform

decision making. The maps may not be used in the place of surveys on specific parcels of land or input of a potentially affected federally recognized Indian tribe regarding specific parcels.

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

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

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

LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1) A lead agency conducting a project-level environmental review under this chapter of a clean energy project identified in section 302(1) of this act must consider a nonproject environmental impact statement prepared pursuant to section 302 of this act in order to identify and mitigate project-level probable significant adverse environmental impacts.

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

(b) Lead agencies reviewing site-specific project proposals for clean energy projects under this chapter shall use the nonproject review described in this section through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 182023:

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

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 307. (1)(a) The department must consult with stakeholders from rural communities, agriculture, natural resource management and conservation, and forestry to gain a better understanding of the benefits and impacts of anticipated changes in the state's energy system, including the siting of facilities under the jurisdiction of the energy facility site evaluation council, and to identify risks and opportunities for rural communities. This consultation must be conducted in compliance with the community engagement plan developed by the department under chapter 70A.02 RCW and with input from the environmental justice council, using the best recommended practices available at the time. The department must collect the best available

information and learn from the lived experiences of people in rural communities, with the objective of improving state implementation of clean energy policies, including the siting of energy facilities under the jurisdiction of the energy facility site evaluation council, in ways that protect and improve life in rural Washington. The department must consult with an array of rural community members, including: Low-income community and vulnerable population members or representatives; legislators; local elected officials and staff; those involved with agriculture, forestry, and natural resource management and conservation; renewable energy project property owners; utilities; large energy consumers; and others.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Financial returns to property owners;

(iii) Effects on local tax revenues and public services, which must include whether any school districts had a net loss of resources from diminished local effort assistance payments required under chapter 28A.500 RCW

and impacts to public safety, the 911 emergency communications system, mental health, criminal justice, and rural county roads;

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 310. (1) The committee shall review the report produced by the department of commerce under section 307 this act and consider any policy or budget recommendations to reduce impacts and increase benefits of the clean energy transition for rural communities, including mechanisms to support local tax revenues and public services.

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

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

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

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

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

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

(6) This section expires June 30, 2025.

PART 4

MISCELLANEOUS PROVISIONS

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

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

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

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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Appendix E: Status of tasks identified in HB1216

Section & Task	Responsible Agency	Activities and accomplishments (by Oct 1, 2024)	Status (by Oct 1, 2024)	Legislative Due Date	Expected or actual completion date	Notes & Links
101 (1) Establish an interagency clean energy siting coordinating council	ECY and COM	All required agencies participating. Meets monthly since Aug 2023.	Accomplished and on-going	N/A	Initiated 8/2023	https://ecology.wa.gov/regulations-permits/sepa/clean-energy/council
102 (2)	ECY and COM	Coordinating council shall provide an annual report	In progress	Oct. 1		
102 (1) (a) Identify actions to improve siting and permitting of clean energy projects	Council members	Council discusses regularly at Council meetings and workgroups	Accomplished and on-going	October 1, 2024; Annually thereafter	October 1, 2024; Annually thereafter	This report fulfills this task.
102 (1) (b) Track federal government efforts to improve clean energy project siting and permitting	Council members		In progress	October 1, 2024; Annually thereafter	October 1, 2024; Annually thereafter	Due 6.26.24 as additions to legislative report draft
Sec. 102 (3) (a) (i) (A) Evaluation of state agency siting and permitting processes for clean energy projects;	COM	Independent third-party evaluation of state agency siting, models from other states; Contracted to Beveridge and Diamond PC.	In progress	July 1	July 1	Draft findings and recommendations presented to the Coordinating Council on April 10, 2024
102 (1) (d) Establish work groups as needed	Council members		As needed	NA	NA	
102 (1) (e) Create advisory committees deemed necessary	Council members		As needed	NA	NA	
102 (1) (f) Support GOIA in creating and updating annually a list of contacts at federally recognized Indian Tribes	GOIA	Create and update list of contacts at tribes for clean energy	In progress		Sept. 2024	
102 (1) (g) develop and provide to clean energy project developers a training on consultation and engagement processes for federally recognized Indian Tribes	GOIA, DAHP, COM, EFSEC	Develop training for developers	In progress		Fall 2024	Tribes said they have training already that could be used.

102 (1) (h) Support DAHP in updating the statewide predictive archaeological model	DAHP	DAHP update on predictive archaeological model	In progress		June 2024	
102 (1) (i) Support Ecology in the nonproject reviews required under section 303 of this act	ECY	Coordinating with agencies and council	In progress	June 30, 2025	June 2025	
Sec. 102 (3) (e) Establish program for clean energy projects of statewide significance	COM		In progress			
Sec 102 (3) (b). Report on Consolidated clean energy application	ECY	Explore potential development of consolidated clean energy permit application	In progress	Dec 31, 2024	Oct 1, 2024 (combined with report on consolidated permit)	Input from state, local and federal agencies, and tribes
Sec 102 (3) (c). Report on consolidated permit for clean energy projects	ECY	Explore potential development of consolidated clean energy permit	In progress	Oct 1, 2024	Oct 1, 2024 (combined with report on consolidated permit)	Input from state, local and federal agencies, and tribes
Sec 102 (3) (d) Determine priorities for categories of clean energy projects to be the focus of new nonproject environmental impact statements	Council members		Ongoing	NA		
Sec 102 (3) (e) Consider and provide recommendations to the legislature on additional benefits that could be provided to projects designated as clean energy projects of statewide significance	Council/COM		Ongoing	NA		
Sec. 202 and 203. Clean energy projects of statewide significance.	COM		In progress			
Sec. 201-209. Establish Clean Energy Coordinated Permitting Process	ECY	Developed outreach, guidance, and templates Ready for projects	Completed	Oct. 1		https://ecology.wa.gov/regulations-permits/sepa/clean-energy/clean-energy-coordinated-permit-process

Sec. 301 (2) (a) and (3) (a) Require notification of SEPA probable determination of significance	ECY	Notification of SEPA probable determination of significance already required by rule Sec. 301 (3) (a) SEPA. No additional work needed.	Completed	Oct. 1		
Sec. 302 (1) (a), (b), and (c). Develop Nonproject Environmental Impact Statements	ECY	Ecology developing three programmatic EISs for onshore wind, solar, green hydrogen (plus co-located storage)	In progress	June 30, 2025	June 30, 2025	https://ecology.wa.gov/regulations-permits/sepa/clean-energy/programmatic-eis
Sec. 302 (7) Establish preferred zones for the clean energy project technology analyzed in nonproject reviews	Council members	Recommend potential areas to designate as clean energy preferred zones for the clean energy project technology analyzed in nonproject reviews	Not initiated, will begin after PEISs are completed	None		PEISs will provide information for the Council to use in developing recommendations for preferred energy zones and incentives
Sec. 306. Identify Information for Pumped Storage Siting	WSU Energy Program	Conducting tribal and non-tribal outreach. Created communication materials. Provided webinar in June 2024. Assessed and mapped theoretical sites and additional factors	In Progress	June 30, 2025	June 30, 2025	https://www.energy.wsu.edu/CleanFuelsAltEnergy/PSHSiting.aspx
102 (1) (c) and 307 Conduct outreach to parties with interests in clean energy siting and permitting	COM	Rural Clean Energy Study and Report hosting 3 in-person meetings in rural WA in May 2024. Meetings with enviro coalition in Jan-Feb 2024	Accomplished and on-going			Sec 307 Joint Energy Committee Obligations, including COM report on rural clean energy & resilience; COM final report due 12/1/2024. Joint Committee report due 12/1/2024
Sec. 307. (1)(a) Rural Energy Study	COM	Contracted to Ross Strategic	In progress	December 1, 2024	December 1, 2024	
Sec. 308: Create the joint committee on energy supply, energy conservation, and energy resilience	Legislature		Completed			Meetings ongoing
Sec. 310. (1) Joint Committee on Energy Supply, Energy Conservation, and Energy Review Rural Energy Study	Legislature	Met on 9/21/2023 Rural clean energy and resilience report update				

SB 5165 (2023)		EFSEC prepares nonproject EISs for certain transmission facilities	In progress			
HB 1812 (2022)		Reorg of EFSEC out of UTC	Completed			