

REPORT TO THE LEGISLATURE



Low-Carbon Energy Project Siting Improvement Interim Legislative Report



Washington State
Department of
Commerce

Introduction

As directed by the Washington Legislature in [Engrossed Third Substitute House Bill 1091¹](#) (Chapter 317, Laws of 2021, Section 28), the Department of Ecology (Ecology) and the Department of Commerce (Commerce) are developing recommendations to improve siting and permitting processes for industrial low-carbon energy facilities and projects. To understand the issues and develop recommendations to the Legislature, Ecology and Commerce are conducting a [siting improvement study²](#) and engaging a variety of stakeholders, Tribes, agencies and the public.

The results of this work will help:

- Contribute to the development of Washington's low-carbon energy economy.
- Reduce potential adverse impacts to the environment and local communities.
- Preserve Tribal consultation and treaty rights.
- Support family-wage jobs.

This interim report discusses how the agencies are coordinating with other state efforts to support clean energy and the approach being used to gather input. The report provides a high-level summary of areas for improvement based on prior studies and efforts. The siting improvement study will build upon these ideas and include new concepts from the advisory board, Tribal consultation and engagement, agency coordination work, and stakeholder and public input in order to develop detailed recommendations in the final report.

Clean Fuel Standard Directive

Engrossed Third Substitute House Bill 1091 (Chapter 317, Laws of 2021, Section 28) states:

“(1) The department, in coordination with the department of commerce and other agencies as appropriate, must develop recommendations for potential improvements to the permitting processes for industrial projects and facilities in Washington that would contribute to achieving greenhouse gas emissions limits established under RCW 70A.45.020 while maintaining standards for the protection of the environment and the preservation of tribal

¹ <https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1091-S3.SL.pdf>

² <https://ecology.wa.gov/LowCarbonEnergySiting>

consultation and treaty rights. The department must provide increased clarity on areas in the state that may be suitable for siting projects that have a lower potential for negative environmental impacts, especially to highly impacted communities as defined in RCW 19.405.020 and identify strategies for minimizing and mitigating negative environmental impacts where possible. The department must provide clear guidance and direction intended to improve project proposals, recommend policy and administrative improvements necessary to improve the permitting process, and recommend any additional studies needed. The department shall convene businesses, local governments, community organizations, and environmental and labor stakeholders, and consult with tribes.

(2) The department and the department of commerce shall produce and submit to the governor and the legislature an interim progress report with initial policy proposal recommendations for the 2022 legislative session by December 1, 2021, and a final report including findings, recommendations, and further policy proposals by December 1, 2022.

(3) This section expires June 30, 2023."

Siting Improvement Study Focus

The study will identify systemic issues and areas for improvement related to:

- Siting industrial clean energy projects
- Environmental review and permitting processes
- Tribal treaty rights and Tribal and cultural resources
- Consideration of highly impacted communities and vulnerable populations as defined in the [Clean Energy Transformation Act³](#)

The study is designed to identify opportunities and roadblocks in current processes, and develop guidance and tools to improve siting processes, including a mapping tool prototype.

The study focus is on industrial low-carbon energy projects such as:

- Bio-refineries and refineries producing alternative fuels
- Solar and wind farms
- Solar and energy storage major component manufacturers, including electric vehicle batteries
- Pumped storage hydropower and battery energy storage facilities
- Green hydrogen facilities
- Offshore energy facilities (such as wind and tidal)

³ <https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5116-S2.SL.pdf>

Support for Statewide Efforts

Governor Inslee and the Legislature have committed to ensuring our state does its part to reduce our contributions to global climate change and help facilitate the clean energy transition in Washington. In support of this commitment, Ecology and Commerce are reaching out to diverse groups with interests in siting and permitting clean energy projects seeking their input and feedback for improvements. The governor and Legislature are expected to introduce related near-term budget and policy actions in the upcoming legislative session.

The state has a suite of policies aimed at reducing greenhouse gas emissions below the state emission limits, including the [Clean Fuel Standard](#)⁴, the [Climate Commitment Act](#)⁵, the [Clean Energy Transformation Act](#)⁶, the [Hydrofluorocarbon Transition](#)⁷, the [Zero Emissions Vehicle program](#)⁸ and others. In addition, agencies are coordinating on other energy-related work now underway as part of the [2021 State Energy Strategy](#)⁹ and the Clean Energy Transformation Act, including the [Transmission Corridors Work Group](#)¹⁰. Agencies are incorporating equity and environmental justice considerations into climate work under the requirements of the [Healthy Environment for All Act](#)¹¹. As the state begins to implement these climate and energy mandates, clear siting policies and processes will be critical to help plan for the clean energy transition.

The siting study approach, discussed in the following section, explains how the agencies are coordinating across state government and with stakeholders and Tribal governments. This approach was designed to align with other clean energy-related efforts, build on past discussions and lessons learned and integrate a range of ideas for the final report.

Siting Improvement Study Approach

To understand issues surrounding how low-carbon energy projects are permitted and sited, Ecology and Commerce are consulting with Tribes and engaging a wide variety of stakeholders and agencies. Their input will clarify issues and identify improvements to the state's environmental review, permitting and siting processes for industrial clean energy projects in

⁴ <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Clean-Fuel-Standard>

⁵ <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Climate-Commitment-Act>

⁶ <https://www.commerce.wa.gov/growing-the-economy/energy/ceta/>

⁷ <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Hydrofluorocarbons>

⁸ <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/ZEV>

⁹ <https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

¹⁰ <https://www.efsec.wa.gov/energy-facilities/transmission-corridors-work-group>

¹¹ <https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5141-S2.SL.pdf>

Washington. The Dec. 1, 2022 final report to the Legislature will include recommendations developed through this approach.

As part of the siting study work, Ecology and Commerce will also develop a mapping tool prototype that agencies and developers could use to inform and make siting decisions.

Advisory Board

Ecology and Commerce have established an [advisory board](#)¹² made up of representative stakeholders and Tribal government designees. The board provides a collaborative forum for members to educate one another and provide perspective and feedback regarding how to improve low-carbon energy project permitting and siting processes.

The advisory board includes representatives from biofuel companies, business associations, environmental and climate organizations, environmental justice entities, labor, local government, ports, renewable energy developers, Tribes and utilities. Board members are listed in Appendix A.

Tribal Consultation and Engagement

In September 2021, Ecology held two Tribal information sessions to provide an overview of the siting study and propose opportunities for Tribal consultation and engagement. In addition to government-to-government consultation, Tribes can choose to participate through Tribally-appointed government representatives on the advisory board, Tribal information sessions, Tribal forums and leadership roundtables. Formal government-to-government consultation will occur with interested Tribes.

Interagency Policy Team

Ecology and Commerce are leading an [interagency policy team](#)¹³ to provide insights and feedback about improving low-carbon energy project permitting and siting processes. To support efficiency and transparency, the interagency policy team will also coordinate on other agency efforts for the state's clean energy transition. Participating agencies are listed in Appendix B.

Public Participation

Ecology published a [website](#)¹⁴ and created an email distribution list to provide information and updates to the public about this effort. Advisory board and interagency policy team

¹² <https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Clean-Fuel-Standard/Low-carbon-energy-siting/Advisory-board>

¹³ <https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Clean-Fuel-Standard/Low-carbon-energy-siting/Interagency-Policy-Team>

¹⁴ <https://ecology.wa.gov/LowCarbonEnergySiting>

meeting agendas, summaries and documents are available on the website. In 2022, the agencies will hold informational sessions to share ideas and hear feedback from the public.

Plan to Develop Final Report Recommendations

Representing a broad range of interests and diverse experience, the advisory board, interagency policy team and Tribal forums and consultation will provide critical insights on how to improve environmental review, permitting and siting processes for low-carbon energy projects in Washington. Direct input and online comments will also shape the final study.

The collaborative discussions will identify opportunities and roadblocks in current processes. The groups will examine potential options for resolving systemic issues and characterizing high-level implications, trade-offs and opportunities associated with implementing proposed options. While each site for a clean energy project is unique and impacts may vary based on location, facility type and operations proposed, the study will develop recommendations for improving systemic siting and permitting issues to be included in the final report.

Issues to Be Considered in the Siting Study

Past studies and reviews of siting and permit timeliness and processes have identified areas to consider for improvement. While not an exclusive list, this prior work offers a starting place from which Ecology and Commerce will conduct this work. The siting improvement study will build upon these ideas and include new concepts from the advisory board, Tribal consultation and engagement, agency coordination work and stakeholder and public input. A high-level summary of areas to consider follows.

Pre-application Work

Thoughtful work and collaboration with relevant agencies, Tribes and local communities during a project pre-application phase can reduce risks for siting decisions and improve review and permitting processes. The siting study will consider, but is not limited to:

- Applicant engagement with state and federal agencies, local and Tribal governments, highly impacted communities and vulnerable populations and affected users prior to submitting a proposal.
- Agency best practices, guidance and documents for developers to utilize early in their siting decisions, such as the [Governor's Office for Regulatory Innovation and Assistance online permitting assistance tool¹⁵](#).
- Information and training on what to expect for clean energy project siting and permitting in Washington state, similar to the [Choose Washington¹⁶](#) approach.

¹⁵ <https://apps.oria.wa.gov/opas/>

¹⁶ <http://choosewashingtonstate.com/>

Tribal Treaty Rights and Tribal Resource Protection

Clean energy projects could affect Tribal treaty rights, Tribal resources and Tribal access to resources. Ecology has offered to consult with Tribes to develop recommendations to protect these rights and resources. The siting study will consider, but is not limited to:

- Applicant engagement with Tribal governments prior to submitting an application.
- Improving Tribal engagement and consultation in siting and permitting processes for projects that could affect Tribal treaty rights, Tribal resources and Tribal access to resources.
- Ensuring renewable energy projects deliver benefits to affected Tribal communities.
- Training for developers on Tribal treaty rights and Tribal governments in Washington and the considerations unique to this region to support successful engagement from the start of any project proposal.

Environmental Justice Considerations

Highly impacted communities and vulnerable populations could be affected by clean energy projects. The siting study will consider, but is not limited to:

- Using mapping tools and other resources to identify and engage highly impacted communities and vulnerable populations early in the siting and permitting process.
- Applicant engagement with highly impacted communities and vulnerable populations prior to submitting an application.
- Improving the identification of environmental resources, jobs and economic impacts for these communities, and how they intersect.
- Ensuring renewable energy projects deliver benefits to local communities near where they are built.

Financial Support and Incentives

Studies and reviews have identified that incentives for developers and adequate funding for local and state agencies help improve the environmental review and permitting processes. The siting study will consider, but is not limited to:

- Low-interest loans, grants, tax credits and other incentives to support siting and permitting of renewable energy investments.
- Funding for local and state government agencies to use for planning, environmental reviews and permitting for clean energy projects. For example, the state [growth management planning and environmental review fund](#)¹⁷ assisted counties and cities by funding preparation of a detailed environmental impact statement integrated with a

¹⁷ <https://app.leg.wa.gov/rcw/default.aspx?cite=36.70A.490>

comprehensive plan or subarea plan and local development regulations to support project development.

- Funding for planning-level work prior to project development.

Increased State and Local Agency Capacity

Staff and funding to work on clean energy project siting and permitting, including pre-application support and agency coordination, can improve environmental review and permitting processes. The siting study will consider, but is not limited to:

- Funding for dedicated agency staff to assist in managing environmental reviews and permits for clean energy projects to reduce timelines.
- Funding for structured cross-agency staff coordination to collaborate on projects. This will improve timing and predictability for development of clean energy sites.
- Support for a consistent and structured system to further Washington's climate and economic goals and improve customer service.

Environmental Review and Permitting Process Improvements

Past studies, audits and reviews identified potential environmental review and permitting process improvements. The 2013 Washington State Auditor's Office report on [Regulatory Reform: Improving Permit Timeliness](#)¹⁸ presented recommendations. While agencies have enacted many of these, the siting study will consider further work, including, but not limited to:

- Developing new online or joint permitting tools such as the one-stop [Joint Aquatic Resources Application \(JARPA\) Permit Site](#)¹⁹.
- Providing additional agency assistance to applicants early in the process.
- Using performance data to identify and eliminate agency process bottlenecks.
- Improving clarity and predictability by providing applicants with information about the permit process, including how agencies make decisions, milestones and how long the process is expected to take.
- Developing best management practices guidance for clean energy project applications.
- Improving use of existing tools such as State Environmental Policy Act (SEPA) planned actions in Growth Management Act areas. A planned action identifies impacts for a specific geographic area, before individual projects are proposed. Future development proposals that are consistent with the review could use it and reduce the work needed for their specific project's environmental review.

¹⁸ <https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?arn=1010778&isFinding=false&sp=false>

¹⁹ https://www.epermitting.wa.gov/site/alias__resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx

- Using Comprehensive Plan subarea planning or master plans for a specific area. These could then be applied to siting projects, such as for a port or industrial area.
- Using integrated plans or programmatic environmental impact statements for geographic areas or categories of projects, such as solar or wind. Applicants and agencies could then use the analysis and mitigation for projects and for siting considerations.
- Establish committee(s) for technical and policy development to improve permit and regulatory processes for clean energy facilities.

Examples may provide useful insight on how these types of environmental review and permitting options have been used. Recent work includes the [Puget Sound Industrial Center - Bremerton](#)²⁰ subarea plan, the [Yakima Basin Integrated Plan](#)²¹ and the [Chehalis Basin Strategy Programmatic Environmental Impact Statement](#)²².

Mapping Tools

Mapping tools can help decide where projects might be sited by identifying least-conflict areas and other resources to consider. Examples of least conflict studies for specific geographic areas and designated types of clean energy, include solar power siting in [California's San Joaquin Valley](#)²³, the [prototype wind and solar consultation tool from Commerce's Compatible Energy Siting Assessment](#)²⁴ and the [least-conflict solar siting work planned for the Columbia River Basin](#)²⁵. The siting improvement study will develop a mapping tool prototype as part of the process.

Timeline

The low-carbon energy project siting improvement work started in July 2021 and will continue to December 2022 as shown in Figure 1. The final legislative report is due Dec. 1, 2022. Starting in fall 2021 and through November 2022, the advisory board and interagency policy team will meet monthly. Tribal information sessions were held in September 2021 and additional opportunities for Tribal consultation and engagement will be offered in 2022. Throughout the process, the agencies will continue to gather input from stakeholders and the public. As part of the siting study work, Ecology and Commerce will also develop a mapping tool prototype that agencies and developers could use to inform and make siting decisions.

²⁰ <https://www.bremertonwa.gov/398/SKIA-PSIC>

²¹ <https://yakimabasinintegratedplan.org/>

²² <https://chehalisbasinstrategy.com/programmatic-eis/>

²³ <https://sjvp.databasin.org/>

²⁴ <https://500agemrv.timmons.com/CESAMappingTool/>

²⁵ <http://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Passed%20Legislature/5092-S.PL.pdf>



Figure 1: Timeline

Overview of Siting Work in Washington

Table 1 lists current and planned agency and legislatively-directed siting efforts in Washington related to clean energy facilities.

Table 1: Siting Work in Washington

Siting work	Clean energy focus	Lead state agency
<u>Washington Transmission Corridors Work Group²⁶</u>	Electric transmission and distribution facilities	Energy Facility Site Evaluation Council
<u>Compatible Energy Siting Assessment (CESA)²⁷</u> for civilian-military coordination	Solar and wind energy projects	Department of Commerce
<u>Growth Management Act Washington Administrative Code (WAC) Update²⁸</u>	Renewable energy	Department of Commerce

²⁶ <https://www.efsec.wa.gov/energy-facilities/transmission-corridors-work-group>

²⁷ <https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/military-base-land-use/>

²⁸ https://www.ezview.wa.gov/site/alias_1996/37681/overview.aspx

Siting work	Clean energy focus	Lead state agency
<u>Marine Spatial Plan (MSP)</u> ²⁹	Offshore renewable energy	Department of Ecology
<u>Washington Columbia Basin Least Conflict Solar Project</u> ³⁰ (Work begins fiscal year 2023)	Solar	Washington State University
Streamlined Solar Energy Facility Application ³¹	Solar	Energy Facility Site Evaluation Council
Mapping Tool for Renewable Energy Projects ³²	Renewable energy	Department of Natural Resources

Conclusion

Ecology and Commerce have established a diverse advisory board and an interagency team for the siting improvement study and have started consultation and engagement with Tribes. The meetings with these interested parties will identify issues, roadblocks and opportunities. They will be used as the basis to develop specific recommendations for improving siting, environmental review and permitting processes. The agencies are beginning and will continue to gather stakeholder and public input throughout the process and coordinate to align with other state clean energy efforts. The recommendations from this collaborative and broad-based effort will be included in the final legislative report due Dec. 1, 2022.

References

Governor's Office for Regulatory Innovation and Assistance; [Permit Timeliness Progress Report 2020](#)³³

Washington State Auditor's Office; [Regulatory Reform: Improving Permit Timeliness](#)³⁴; Dec. 30, 2013

²⁹ <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Ocean-management/Marine-spatial-planning>

³⁰ <http://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Passed%20Legislature/5092-S.PL.pdf>

³¹ Work in progress, no link available at this time.

³² Work in progress, no link available at this time.

³³ https://www.oria.wa.gov/Portals/_oria/VersionedDocuments/Regulatory_Improvement/ORIA-2020-PermitTimelinessProgressReport.pdf

³⁴ <https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?arn=1010778&isFinding=false&sp=false>

Appendices

Appendix A: Advisory Board Members

Advisory board members include (alphabetically by organization):

- [Association of Washington Business](#)³⁵, Peter Godlewski
- [Audubon Washington](#)³⁶, Adam Maxwell
- [City of Spokane](#)³⁷, Breann Beggs
- [Climate Solutions](#)³⁸, Vlad Gutman
- [Front and Centered](#)³⁹, Mariel Thuraisingham
- [Invenergy](#)⁴⁰, Laura Miner
- [Klickitat County](#)⁴¹, Dave McClure
- [Latino Community Fund](#)⁴², Giovanni Serverino
- [Makah Tribe](#)⁴³, Vice-Chairman Patrick DePoe
- [NextEra Energy, Inc.](#)⁴⁴, Christopher Powers
- [Port of Benton](#)⁴⁵, Diahann Howard
- [Port of Grays Harbor](#)⁴⁶, Gary Nelson

³⁵ <https://www.awb.org/>

³⁶ <https://wa.audubon.org/>

³⁷ <https://my.spokanecity.org/>

³⁸ <https://www.climatesolutions.org/>

³⁹ <https://frontandcentered.org/>

⁴⁰ <https://invenergy.com/>

⁴¹ <https://www.klickitatcounty.org/>

⁴² <https://www.latinocommunityfund.org/>

⁴³ <https://makah.com/>

⁴⁴ <https://www.nexterenergy.com/>

⁴⁵ <https://portofbenton.com/>

⁴⁶ <https://www.portofgraysharbor.com/>

- [Puget Sound Energy](#)⁴⁷, Cassie Bordelon
- [Puyallup Tribe](#)⁴⁸, Lisa Anderson
- [Renewable Energy Group](#)⁴⁹, Kent Hartwig
- [Sierra Club](#)⁵⁰, Stephanie Hillman
- [Washington Environmental Council](#)⁵¹, Rebecca Ponzio
- [Washington State Association of Counties](#)⁵², Paul Jewell
- [Washington State Building and Construction Trades Council](#)⁵³, Mark Riker
- [Washington State Labor Council](#)⁵⁴, Joe Kendo
- [Whatcom County](#)⁵⁵, Amy Keenan

Appendix B: Interagency Policy Team Members

The [Department of Ecology](#)⁵⁶ and the [Department of Commerce](#)⁵⁷ are co-leads for the Interagency Policy Team.

Other participating state agencies:

- [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#)⁵⁸
- [Governor's Office of Indian Affairs \(GOIA\)](#)⁵⁹

⁴⁷ <https://www.pse.com/>

⁴⁸ <http://www.puyallup-tribe.com/>

⁴⁹ <https://www.regi.com/>

⁵⁰ <https://www.sierraclub.org/washington>

⁵¹ <https://wecprotects.org/>

⁵² <https://www.wsac.org/>

⁵³ <https://wabuildingtrades.org/>

⁵⁴ <https://www.wslc.org/>

⁵⁵ <https://www.whatcomcounty.us/>

⁵⁶ <https://ecology.wa.gov/>

⁵⁷ <https://www.commerce.wa.gov/>

⁵⁸ <https://www.oria.wa.gov/>

⁵⁹ <https://goia.wa.gov/>

- [Office of the Governor](#)⁶⁰
- [State of Washington Energy Facility Site Evaluation Council \(EFSEC\)](#)⁶¹
- [Washington Department of Fish and Wildlife \(WDFW\)](#)⁶²
- [Washington State Department of Agriculture \(WSDA\)](#)⁶³
- [Washington State Department of Archaeology & Historic Preservation \(DAHP\)](#)⁶⁴
- [Washington State Department of Natural Resources \(DNR\)](#)⁶⁵
- [Washington State Department of Transportation \(WSDOT\)](#)⁶⁶
- [Washington Utilities and Transportation Commission \(UTC\)](#)⁶⁷

Publication information

This report is available on the Department of Ecology's website at
<https://apps.ecology.wa.gov/ecy/publications/SummaryPages/2106029.html>.

Contact information

Shorelands and Environmental Assistance Program

Author: Diane Butorac
P.O. Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6600

Website⁶⁸: [Washington State Department of Ecology](#)

⁶⁰ <https://www.governor.wa.gov/>

⁶¹ <https://www.efsec.wa.gov/>

⁶² <https://wdfw.wa.gov/>

⁶³ <https://agr.wa.gov/>

⁶⁴ <https://dahp.wa.gov/>

⁶⁵ <https://www.dnr.wa.gov/>

⁶⁶ <https://wsdot.wa.gov/>

⁶⁷ <https://www.utc.wa.gov/>

⁶⁸ www.ecology.wa.gov/contact

ADA accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6573 or email at diane.butrac@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.