

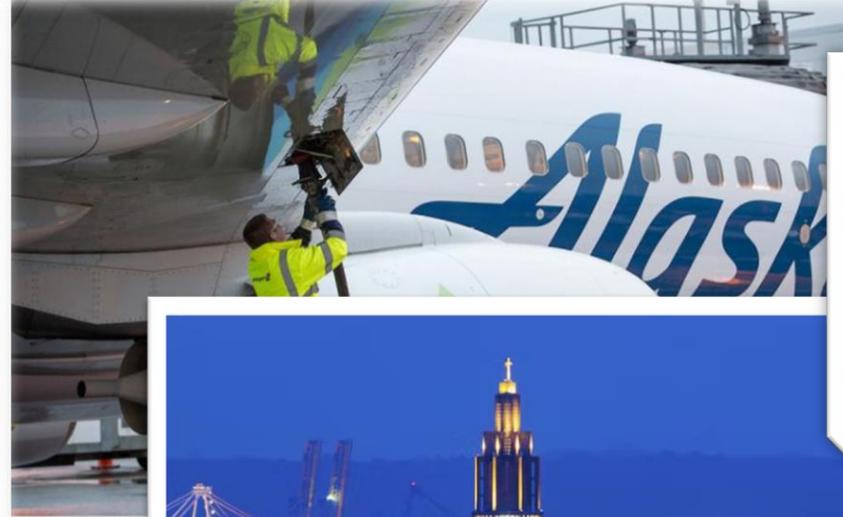
2023 CLEAN ENERGY DEVELOPMENTS – REGULATIONS AND PERMITTING FOR WASHINGTON PORTS

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Port Properties Provide Opportunities for Clean Energy Projects

- Alternative Fuels
- Offshore Wind
- Onshore Wind and Solar
- Hydrogen
- “Transition” Fuels
 - LNG ?
 - Methanol ?

New Washington Law Incentivizes Local Sustainable Aviation Fuel Production



May 3, 2023

DID YOU KNOW?

The 2021 Climate Commitment Act requires that Washington reduce its carbon emissions by 95% by 2050.

That's not lip service - it's law.



How shipping ports are being reinvented for the green energy transition

Published: June 20, 2021 9:10am EDT

¹ Perry Cooper, Port of Seattle, “New Washington Law Incentivizes Local Sustainable Aviation Fuel Production (May 3, 2023), <https://www.portseattle.org/news/new-washington-law-incentivizes-local-sustainable-aviation-fuel-production>

² The Conversation, “How shipping ports are being reinvented for the green energy transition,” (Jun. 20, 2021), <https://theconversation.com/how-shipping-ports-are-being-reinvented-for-the-green-energy-transition-162907>

³ Washington Dep’t of Ecology, “Climate Commitment Act”, <https://ecology.wa.gov/blog/february-2022/the-climate-commitment-act-washington-s-path-to-ca>

Recent Washington Legislation Meant to Streamline and Advance Clean Energy Projects

H.B. 1216/S.B. 5380:

- Purport to encourage efficient and effective siting of clean energy projects in the state
- **Clean energy projects include, for example:**
 - Electrical transmission facilities;
 - Green electrolytic or renewable hydrogen projects;
 - Biomass energy facilities and biogenic fuel process facilities;
 - Solar; wind; water; geothermal; renewable natural gas; and wave, ocean, or tidal;
 - Clean energy product manufacturing facilities
- **Key components of the Bills:**
 - Programmatic EIS for limited Clean Energy Projects
 - Attempt to streamline siting and permitting process, including SEPA review
 - Create Clean Energy Projects of Statewide Significance and Clean Energy Siting Coordination Council

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.

A Sampling of Clean Energy Project Requirements that H.B. 1216 Did Not Streamline

- **Tribal Consultation and Tribal Resource Impacts**
- **Environmental Justice, Overburdened Communities, and Environmental Health Impact Assessments**
- **Endangered Species Act Consultation and Marine Mammal Protection Act Requirements**
- **Vessel Transport/Orca Checklist**
- **Rail Transport**
- **Greenhouse Gas Emissions and Climate Impacts**

GHG Analyses in Environmental Reviews and Ongoing Uncertainty

- **Federal Level:**
 - Council on Environmental Quality (“CEQ”) GHG Guidance and new NEPA Regulations
- **State Level:**
 - SEPA review of GHG emissions and climate impacts (GAP Rule?)
 - Climate Commitment Act (“CCA”)
- **Local Level:**
 - Fossil fuel use code amendments
 - GHG and climate SEPA review without GAP rule

Clean Energy Biofuels Processing Facility Example



- **100% biogenic feedstock to refine biofuels as alternative fuel for internal combustion engines**
- **New facility on port land**
- **New dock or dock modification**
- **Operation dependent on rail, truck, and marine vessel transportation**

Has H.B. 1216 Addressed the Procedures that have Frustrated our Clean Energy Future?

There was and is still increasing recognition of the tension between Washington's climate goals and its robust permitting requirements that act as barriers to meeting such goals:



That question deserves an answer. Inflexible procedural rules are a hallmark of the American state. The ubiquity of court challenges, the artificial rigors of notice-and-comment rulemaking, zealous environmental review, pre-enforcement review of agency rules, picayune legal rules governing hiring and procurement, nationwide court injunctions — the list goes on and on. Collectively, these procedures frustrate the very government action that progressives demand to address the urgent problems that now confront us.



¹ Nicholas Bagley, The Procedure Fetish, 118 Mich. L. Rev. 345 (2019), available at: <https://repository.law.umich.edu/mlr/vol118/iss3/2>.

² Ezra Klein, New York Times, "What America Needs is a Liberalism That Builds (May 29, 2022), available at: <https://www.nytimes.com/2022/05/29/opinion/biden-liberalism-infrastructure-building.html>.

THANK YOU

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