



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

May 15, 2025

Sean Greene
Energy Facility Site Evaluation Council
PO Box 43172
Olympia, WA 98503-3172

**Re: Comments on the Draft Programmatic Environmental Impact Statement for Electrical Transmission Facilities with a Nominal Voltage of 230 Kilovolts or Greater
File# 181034, Ecology SEPA# 202501229**

Dear Sean Greene:

Thank you for the opportunity to provide comments on the State Environmental Policy Act (SEPA) draft Programmatic Environmental Impact Statement (EIS) for electrical transmission facilities with a nominal voltage of 230 kilovolts (kV) or greater. Based on review of the documents associated with this project, the Department of Ecology (Ecology) has the following comments for your consideration.

Chapter	Section	Comment
Chapter 1, Introduction		
	1.6.1 State Environmental Policy Act Review Process	As described under Section 1.6.1, while some large transmission facilities must apply for site certification through the Energy Facility Site Evaluation Council (EFSEC) (with EFSEC often serving as SEPA lead), others are required to go through standard government processes which may include local, state, and federal authorizations; therefore, in some cases, the local government or another state agency may serve as SEPA lead, and this should be clearly stated.
	1.6.1.4 EFSEC Certification Process	This may be better as its own section (i.e., 1.6.2) rather than under 1.6.1 since it is not

		specific to the SEPA process, but rather focuses on EFSEC's broader certification process.
	1.6.3.2 State Regulations and Policies	<p>Under Washington Coastal Zone Management Program, last line, please change "comply with" to "be consistent with"</p> <p>Under Shoreline Management Act, add "Washington State" and "Chapter 90.58 RCW" to title of law. For clarification, also suggest changing language to:</p> <p>"Establishes a state-local partnership for managing, accessing, and protecting Washington's shorelines. The law requires local governments to prepare locally tailored policies and regulations for managing shoreline use in their jurisdictions called Shoreline Master Programs (SMPs). Local governments review shoreline development proposals for compliance with SMP standards.</p> <p>Applies to shorelines of the state, including marine waters, streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes 20 acres or larger, upland areas extending 200 feet landward from the edge of these waters, biological wetlands and river deltas connected to these water bodies, and some or all of the 100-year floodplain, including all wetlands."</p> <p>RCW Chapter 90.48 Water Pollution Control: Please change to "Washington State Water Pollution Control Act." Also note that the definition of pollution is broader than impact to 'ecological function,' addressing a range of impacts that includes beneficial uses (see Chapter 90.48.020 RCW).</p> <p>Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance, and Part 2: Developing Mitigation Plans:</p>

		<p>Please note that Part 1 of this guidance was updated in April 2021 (see Interagency guidance - Washington State Department of Ecology).</p> <p>It may also be helpful to include Eastern and Western Washington Rating System Manuals and forms found online at Rating system - Washington State Department of Ecology.</p>
Chapter 3, Affected Environment, Significant Impacts, and Mitigation		
	<p>Section 3.1.3.2 Avoidance Criteria, AVOID-2—Wetland Disturbance</p> <p>(these are also global change suggestions)</p>	<p>The rationale provided does not address the full suite of possible effects on wetlands. In addition to wetland vegetation, avoidance is needed to protect wetland hydrology, soils, and water quality</p> <p>Additionally, please include citation of the 1987 Army Corps of Engineers Federal Wetland Delineation Manual and appropriate regional supplement, both of which should applied to identify wetlands in and around any project sites.</p> <p>Suggest another avoidance measure would be avoiding shorelines of the state where feasible.</p>
	Table 3.2-1 Laws and Regulations for Earth Resources	<p>Suggest adding Coastal Zone Management Act (CZMA) (16 USC 1451 et seq.):</p> <p>The federal consistency provisions of the CZMA require that federal actions, including federal activities and the issuance of federal licenses and permits, be consistent with the enforceable policies of the Washington Coastal Zone Management Program. This applies to federal actions in Washington’s 15 coastal counties that could have reasonably foreseeable impacts on state coastal resources and uses.</p>

		<p>Since wetlands are included in Section 3.2, suggest also adding Chapter 90.48 RCW, Clean Water Act (Sections 401 and 404), and local regulations (Critical Area Ordinances and local codes).</p>
	<p>Table 3.4-1</p> <p>(this is also a global change)</p>	<p>While the CZMA is a federal law, it is implemented in Washington State by Ecology as noted in footnote #b. However, it may be clearer to just have one entry for CZMA (instead of a separate entry for Washington's CZM Program) and list the agency as Ecology.</p> <p>Change "within and outside of" to "in"</p> <p>Under Clean Water Act, suggest listing U.S. EPA for general regulation, but also listing out Section 404 (U.S. Army Corps of Engineers) and Section 401 (U.S. EPA, Ecology, or some tribes) for clarity.</p> <p>Under Washington CZM Program, if retained:</p> <ul style="list-style-type: none"> -change "Shoreline Management Act" to "Washington Shoreline Management Act and implementing WACs" -change "Water Pollution Control Act" to "Washington State Water Pollution Control Act and implementing WACs" -change "Ocean Resources Management Act" to "Washington State Ocean Resources Management Act and Ocean Management Guidelines" <p>Under RCW 90.48, please update to "Water Pollution Control Act". The summary description should also be updated as this description is incomplete. In particular, please see the policy enunciated under Chapter 90.48.010, along with definitions of "waters of the state" and "pollution" under Chapter 90.48.020 RCW. Also note that Ecology regulates certain activities in non-federally regulated waters, including wetlands, through</p>

		<p>the issuance of authorizations to work in waters of the state.</p> <p>Under Chapter 173 WAC, suggest listing Ch. 173-158 WAC (Floodplain Management) with a brief description.</p> <p>Add:</p> <p>Washington State Executive Order 89-10, Protection of Wetlands: Establishes an interim goal to achieve no overall net loss in acreage and function of Washington's remaining wetlands base and a long-term goal to increase the quantity and quality of Washington's wetlands resource base</p> <p>Add:</p> <p>Chapter 90.58 RCW, Washington State Shoreline Management Act: Establishes a state-local partnership for managing, accessing, and protecting Washington's shorelines. The law requires local governments to prepare locally tailored policies and regulations for managing shoreline use in their jurisdictions called Shoreline Master Programs (SMPs). Local governments review shoreline development proposals for compliance with SMP standards.</p> <p>Applies to shorelines of the state, including marine waters, streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes 20 acres or larger, upland areas extending 200 feet landward from the edge of these waters, biological wetlands and river deltas connected to these water bodies, and some or all of the 100-year floodplain, including all wetlands.</p>
--	--	---

		Local regulations also apply such as shoreline codes, critical area ordinances, floodplain codes, etc.
	Table 3.4-2	<p>Suggest this language either here or elsewhere as an early step for siting: Conduct site reconnaissance to identify the potential presence of wetlands, seeps, and intermittent or ephemeral streams that may be present on the site.</p> <p>Also suggest adding: Perform a wetland delineation using the 1987 US Army Corps of Engineers (USACE) Wetland Delineation Manual (1987 Manual; Environmental Laboratory 1987) and the appropriate regional supplement produced by the USACE for the wetlands present on the site. Delineations need to identify and map the boundaries of wetlands present on the site and indicate where wetlands continue off the site. Assess wetland functions and rate all on-site wetlands using the appropriate Washington Wetland Ratings System method to determine their category and local buffer requirements. Examine adjacent properties for the presence of off-site wetlands that could be affected by facility construction and operation, map their locations, and identify any off-site connections to surface waters.</p> <p>Also suggest avoiding siting in shorelines of the state.</p>
	Section 3.4.2.1	Note that the definition of waters of the state specifically calls out “all other surface waters and watercourses within the jurisdiction of the state of Washington” as part of the list rather than umbrella term of which the others are a part, and this should be added as a bullet point for clarity.

		<p>Wetlands are waters of the state and this should be clearly stated in the text.</p> <p>The sentences “In Washington...ecological needs” is combining a few concepts regarding regulations that address water resources in Washington State, particularly since the focus of the section is on Waters of the state--for clarification, it would be better to say that waters of the state are regulated by Ecology under 90.48 and end the paragraph there. Other sections can discuss various other regulations and agency responsible for their implementation.</p> <p>Under Surface Water, suggest adding “estuaries” to the first sentence.</p> <p>Under Water Quality, add Section 401 Water Quality Certifications (issued by Ecology, US EPA, or some tribes).</p> <p>Note that there are state Water Quality Standards for surface water and groundwater.</p>
	Section 3.4.3.2 Construction, Impacts on Water Quality (and Table 3.4-6)	<p>Aboveground and Underground Transmission Facilities: Work in, over, or near waterbodies, including wetlands, could cause turbidity that directly affects water quality, and a lack of erosion control could lead to soils entering waters/wetlands that could impact water quality as well. Additionally, concrete work not only may increase water usage, but also could impact water quality if it comes into contact with waters directly or through dewatering without prior treatment (e.g., pH).</p> <p>Underground Transmission Facilities—Impacts on Water Quality: Add Section 401 Water Quality Certification and regulation of non-federally regulated waters, including wetlands, by Ecology</p>

		<p>(authorization to work in waters of the state). Additionally, horizontal directional drilling involves drilling mud or slurry which contains additives that in some cases may come into contact with waters/wetlands and impact water quality (e.g., seepage and “frac out”).</p> <p>Upgrade or Modification: See above for additional water quality impacts. Additionally, depending on the specific situation, replacement of aging lines with an in-water crossing can be similar or the same as construction.</p>
	3.4.4 Potential Mitigation Measures (and Table 3.4-6)	<p>See above regarding wetland delineations.</p> <p>Suggest adding development of a water quality monitoring and protection plan.</p> <p>Examples of other plans that may be required include: a dewatering plan; riparian revegetation, restoration and management plan; riparian planting and monitoring measures; spill prevention control and countermeasures plan; erosion and sediment control plan; stormwater pollution prevention plan; flow diversion, cofferdam, and dewatering system plan; stream bypass plan; and horizontal directional drill inadvertent return plan.</p> <p>Suggest adding development of a wetland report, including wetland delineation(s) and wetland rating(s).”</p> <p>Impacts to both jurisdictional and non-federally regulated wetlands require a wetland mitigation plan developed in accordance with Wetland Mitigation in Washington State. See: -Washington State Department of Ecology, <i>Wetland Mitigation in Washington State: Part 1 - Agency Policies and Guidance (Version 2)</i>, April 2021, Publication #21-06-003.</p>

		<p>-Washington State Department of Ecology, <i>Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans</i>, Version 1, March 2006, Publication #06-06-011b.</p> <p>Under “Fish-16 – In-stream sediment disruption,” it suggests establishing a ‘dilution zone.’ It is unclear what this refers to. State water quality standards allow for a temporary area of mixing for turbidity. If a project proponent does not anticipate being able to meet state water quality standards, they may request from Ecology an extended area of mixing for a specific activity and duration, but this is not automatically granted. Suggest removing this language.</p>
	Table 3.5-1 Laws and Regulations for Vegetation	<p>See above, particularly in regards to the Clean Water Act, Ch. 90.48 RCW, etc.</p> <p>Ch. 90.84 RCW is in regards to establishing wetland mitigation banks, whereas most project proponents will want to reference mitigation guidance in Washington State (see above).</p> <p>Chapter 173.26.221 is specific to Shoreline Master Programs. Suggest pointing primarily to the Washington Shoreline Management Act (Ch. 90.58 RCW):</p> <p>Establishes a state-local partnership for managing, accessing, and protecting Washington’s shorelines. The law requires local governments to prepare locally tailored policies and regulations for managing shoreline use in their jurisdictions called Shoreline Master Programs (SMPs). Local governments review shoreline development proposals for compliance with SMP standards.</p>

		<p>Applies to shorelines of the state, including marine waters, streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes 20 acres or larger, upland areas extending 200 feet landward from the edge of these waters, biological wetlands and river deltas connected to these water bodies, and some or all of the 100-year floodplain, including all wetlands.</p> <p>Suggest adding critical areas ordinance codes and other relevant local regulations.</p>
	Table 3.5-2	<p>Some additional delineation resources are found at:</p> <p>Delineation resources - Washington State Department of Ecology</p>
	Page 3-192, top paragraph regarding wetlands (also a global change when referring to sediment entering wetlands)	<p>Suggest changing “sediment” to “soil”</p>
	Table 3.6-1	<p>This description of the Clean Water Act is clearer than previous tables by breaking out various sections (401, 402, 404). Perhaps this could be utilized throughout the Programmatic EIS.</p> <p>Under Clean Water Act: Note that Section 401 is implemented by states, <u>some</u> tribes (those with approved 401 programs), <u>and</u> the US EPA.</p> <p>Under Clean Water Act: The Joint Aquatic Resources Permit Application (JARPA) was formerly used by several agencies, but the use of this form is not among all of these agencies at this time. For example, per the 2023 EPA Water Quality Certification Rule, Ecology has specific requirements in</p>

		<p>application for a Section 401 Water Quality Certification. Therefore, suggest deleting the portion of the entry “The Joint Aquatic Resource Permit Application...Federal 401 Water Quality Protection Agency.”</p> <p>Chapter 90.48 RCW is typically referred to as the Washington State Water Pollution Control Act. See comments above specific to 90.48.</p> <p>Chapter 90.58 RCW is the Washington Shoreline Management Act. See comments above specific to 90.58.</p> <p>Suggest adding Washington State Executive Order 89-10. Protection of Wetlands. See comments above for specific language.</p>
Chapter		
	Table 1 Applicable laws, plans, and policies (State Section)	<p>Change language under Washington State Water Pollution Control Law (Chapter 90.48 Revised Code of Washington [RCW]), 2nd paragraph to:</p> <p>“Tool Ecology uses to regulate certain activities in non-federally regulated waters, including wetlands, through the issuance of authorizations to work in waters of the state.”</p>
	Table 1 Applicable laws, plans, and policies (State Section)	<p>Change language under Washington State Executive Order 89-10. Protection of Wetlands to:</p> <p>“Establishes an interim goal to achieve no overall net loss in acreage and function of Washington's remaining wetlands base and a long-term goal to increase the quantity and quality of Washington's wetlands resource base.”</p>
	Section 3.2.2, Wetlands	<p>Change “facilities” to “projects” to be more inclusive of components such as roads, transmission lines, and other components that may not be on the primary site. Note that this</p>

		<p>is something for consideration in any section discussing regulations related to wetlands/waters.</p> <p>Change “Those wetlands determined to be non-jurisdictional by the federal government are often regulated under state and local laws” to “Those wetlands determined to be non-federal regulated are generally regulated under state and local laws.”</p> <p>If this language is in the section, delete “Because of this overlapping coverage in regulation, all wetlands are considered to be subject to regulation in this study.”</p> <p>Paragraph starting “Because Category I and II wetlands...” change “mitigate” to “compensate”</p>
	Section 3.3? Potentially required permits and approvals	<p>Change language in 6th bullet, Chapter 90.48 Revised Code of Washington (RCW) authorization (Ecology) to:</p> <p>“Impacts on non-federally regulated waters, including wetlands, may require authorization to work in waters of the state from Ecology pursuant to Chapter 90.48 RCW (Water Pollution Control). Compensatory mitigation is required for any impacts.”</p>
	Section 3.3? Potentially required permits and approvals	<p>Change language in 7th bullet, Coastal Zone Management Act Consistency (Ecology) to:</p> <p>“Required if the project is located in Washington’s 15 coastal counties and could have reasonably foreseeable impacts on state coastal resources and uses. A notice of consistency with the state Coastal Zone Management Program is a condition of federal actions, including federal activities and the issuance of federal licenses and permits.”</p>

	3.4.3.2? Recommend measures for siting and design	<p>Add new 2nd bullet:</p> <p>“Conduct site reconnaissance to identify the potential presence of wetlands, seeps, and intermittent or ephemeral streams that may be present on the site.”</p> <p>Change 3rd bullet to:</p> <p>“Perform a wetland delineation using the 1987 Corps of Engineers Wetland Delineation Manual (1987 Manual; Environmental Laboratory 1987) and the appropriate regional supplement produced by the U.S. Army Corps of Engineers (USACE) for the wetlands present on the site. Delineations need to identify and map the boundaries of wetlands present on the site and indicate where wetlands continue off the site. Assess wetland functions and rate all on-site wetlands using the appropriate Washington Wetland Ratings System method to determine their category and local buffer requirements. Examine adjacent properties for the presence of off-site wetlands that could be affected by facility construction and operation, map their locations, and identify any off-site connections to surface waters.”</p>
	3.4.3.3? Required measures	<p>Change 6th bullet (under Chapter 90.48 Revised Code of Washington (RCW)) to:</p> <p>“authorization to work in waters of the state (Ecology)”</p> <p>Change 7th bullet (under Coastal Zone Management Act) to:</p> <p>“Coastal Zone Management Act Consistency (Ecology)”</p> <p>Add 15th bullet (under Develop a water quality monitoring and protection plan):</p>

		<p>“Develop a wetland report, including wetland delineation(s) and wetland rating(s).”</p> <p>Change 16th bullet to:</p> <p>“Impacts to both jurisdictional and non-federally regulated wetlands require a wetland mitigation plan developed in accordance with Wetland Mitigation in Washington State (Ecology et al. 2021).”</p>
	Section 3.5.3? Measures to avoid, reduce, and mitigate impacts	In the text, change “mitigate impacts” to “compensate for impacts”
	Section 3.6.2? Measures to avoid, reduce, and mitigate impact	In the text, change “mitigate impacts” to “compensate for impacts”
	Throughout	Please see any comments/edits from Patricia Johnson found in the Water Resources appendix for Wind and Solar PEISs and not included in this table (e.g., Section 3.4.1.4 Wetlands—paragraph added, 3.4.3.1 General measures—minor edits).
Biological Resources		
	See above	See above
Earth Resource		
	See above for relevant sections	See above
Cumulative Impacts		
	See above for relevant sections	See above
Recreation Resource		
	Table 1 Applicable laws, plans, and policies (State Section)	<p>Check language under Washington State Shoreline Management Act (Chapter 90.58 RCW). It should read:</p> <p>“Establishes a state-local partnership for managing, accessing, and protecting</p>

		<p>Washington’s shorelines. The law requires local governments to prepare locally tailored policies and regulations for managing shoreline use in their jurisdictions called Shoreline Master Programs (SMPs). Local governments review shoreline development proposals for compliance with SMP standards.</p> <p>Applies to shorelines of the state, including marine waters, streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes 20 acres or larger, upland areas extending 200 feet landward from the edge of these waters, biological wetlands and river deltas connected to these water bodies, and some or all of the 100-year floodplain, including all wetlands.”</p>
	Table 1 Applicable laws, plans, and policies (Local Section)	<p>Change “Shoreline master programs” in left column to “Shoreline codes”</p> <p>Change language in right column under Shoreline codes to: “Local codes regulate development within shorelines of the state in accordance with Shoreline Master Programs SMPs and state Shoreline Management Act requirements.”</p> <p>Leave “Local county codes” row in table (note that it’s possible that a city code could be applicable as well)</p>
	<p>Section 3.3 Potentially required permits and approvals</p> <p>(also applies to Solar with Battery Energy Storage System (BESS) and Solar with agricultural uses)</p>	<p>Current language states “There would be no specific permit requirements for utility-scale onshore wind facilities that pertain to recreation.” However, shoreline recreation is a preferred shoreline use (for both the shoreline and waterways) under the SMA and this does come into play in siting development Shoreline Management Act - Washington State Department of Ecology.</p> <p>Suggest adding in that “Local jurisdictions would address recreation where a project</p>

		component is within shoreline jurisdiction through local shoreline permitting.”
	Section 3.4.3.2 Recommended measures for siting and design (also applies to Solar with BESS and Solar with agricultural uses)	<u>Add:</u> “Avoid siting project components within shorelines of the state.”
	Section 3.4.3.3 Required measures (also applies to Solar with BESS and Solar with agricultural uses)	<u>Add:</u> “Local Permits (e.g., Shorelines) (local agency)”
	Section 3.4.3.4 Recommended measures for construction, operation, and decommissioning (also applies to Solar with BESS and Solar with agricultural uses)	Suggest adding something like: “Coordinate with the local jurisdiction and community regarding provision of recreational access when and where practicable.” (In some cases, access can be provided in a certain season or off-construction hours, or continuous access can be provided to some areas of the overall project site until construction begins at that location.)

Thank you for considering these comments from Ecology. If you have any questions or would like to respond to these comments, please contact Rebekah Padgett from the Shorelands and Environmental Assistance Program at (206) 914-8328 or by email at rebekah.padgett@ecy.wa.gov.

Sincerely,

Kelli Price

Kelli Price
SEPA Coordinator

Sent by email: Sean Greene, comments@efsec.wa.gov

ecc: Rebekah Padgett, Ecology