

DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**Rule Implementation Plan  
Chapter 173-444 WAC,  
Clean Energy Transformation Rule**

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## Publication and Contact Information

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**Implementation Plan**  
**Chapter 173-444 WAC**  
**Clean Energy Transformation Rule**

Air Quality Program  
Washington State Department of Ecology  
Olympia, Washington

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# Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

# Introduction

On January 6, 2021, Ecology adopted a new rule, Chapter 173-444 WAC, Clean Energy Transformation Rule (Administrative Order #19-08) to implement parts of the Washington Clean Energy Transformation Act (CETA), Chapter 19.405 RCW, which the Washington Legislature passed and the Governor signed into law in 2019.

CETA directs Ecology to adopt rules, by January 1, 2021, that:

- Establish requirements for energy-related projects (referred to as energy transformation projects (ETPs)), other than electricity generation, that reduce greenhouse gas (GHG) emissions and fossil fuel consumption. CETA requires Ecology to consult with the Washington State Department of Commerce (Commerce) and the Washington Utilities and Transportation Commission (UTC). Electric utilities may use these ETPs as an alternative compliance option to meet the 2030 GHG neutral electricity standard required under CETA.
- Determine GHG emission factors for electricity, in consultation with Commerce.

In order to meet these goals, the rule:

- Establishes a process for determining what types of ETPs may be eligible for compliance with CETA.
- Establishes a process and requirements for developing the standards, methodologies, and procedures for evaluating ETPs.
- Provides methods for calculating GHG emissions content in electricity.

The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-444 WAC about how Ecology intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that Ecology may need to write or revise because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

## **Implementation and Enforcement**

The rule applies to consumer-owned utilities (COU) as defined in RCW 19.405.020(10) and investor-owned utilities (IOU) as defined in RCW 19.405.020(24). The rule may also affect a wide number of other stakeholders and interested parties, especially those with an interest in the development and implementation of ETPs. The rule:

- Establishes a process to determine what types of ETPs may be eligible to meet CETA.
- Establishes a process and requirements to develop standards, methodologies, and procedures to evaluate ETPs.
- Provides methods to calculate the GHG emissions content in electricity.

Ecology implements this rule through staff in the Air Quality Program in Lacey. This rule has two parts that require different implementation and enforcement actions.

### **Part I. Implementation of GHG emissions calculation**

The first part of the rule establishes the calculation methods for determining GHG emissions content in electricity that an electric utility supplies to its retail customers in Washington.

This part of the rule provides instructions on how to calculate the GHG emissions in electricity. There are no reporting requirements, deadlines, or penalties for non-compliance, etc. The implementation and enforcement of this part of the rule will be with Commerce and UTC, if they adopt it in their rules. We worked closely with these agencies when developing the calculation methods. We also attempted to make it compatible with existing fuel-mix disclosure program, as required in CETA.

### **Part II. Implementation of Energy Transformation Projects**

Part II of the rule establishes the requirements for ETPs, and will be implemented and enforced only if an electric utility decides to explore and use an ETP towards compliance with the GHG neutral electricity standard. The implementation and enforcement of this part of the rule follows a multi-step process largely under Ecology, as shown in Figure 1, however the approving bodies (as defined in the rule) implement and enforce the last steps of the rule.

## **Step 1: Identification of eligible categories of Energy Transformation Projects**

To implement the identification of eligible categories of ETPs, Ecology will begin preparation of an initial list of eligible program categories within thirty days after the effective date of this chapter. This list will identify categories of projects that have been subject to a preliminary but not definitive evaluation and screening relative to the conditions, requirements, and criteria established in RCW 19.405.040 and 19.405.020(18) for ETPs.

Ecology will provide a thirty day public comment period for interested parties to submit to Ecology project categories, concepts, or groupings not described in RCW 19.405.020(18)(b), and any justification or background materials for the submission, which they wish to have subject to the evaluation process for adding to this list. In the preparation of the initial list, Ecology will take into account comments received in the rulemaking process, including recommendations for the evaluation of project categories, concepts, or groupings not described in RCW 19.405.020(18)(b) and comments regarding the appropriateness of including those described in RCW 19.405.020(18)(b). Not less than ninety days after the close of the comment period, Ecology will post on its website a revised initial list of eligible project categories.

Ecology can modify or add to this initial list of project categories after posting it on its website. Additions or modifications to this list must go through a public review and comment process for at least forty-five days.

## **Step 2: Development of a comprehensive protocol for Energy Transformation Projects**

To implement the development of standards, methodologies and procedures to evaluate ETPs, Ecology will develop and maintain a comprehensive protocol as well as supporting documents from a variety of sources. Ecology will modify or expand the comprehensive protocol to reflect new information, improve the applicability of the embodied information to existing projects, and to ensure the ability of the comprehensive protocol to incorporate and account for new projects. Ecology will evaluate the comprehensive protocol every six months and update it as necessary.

## **Step 3: Electric utilities propose Energy Transformation Projects**

Using the comprehensive protocol, electric utilities may propose ETPs by creating project plans in a manner outlined in the comprehensive protocol.

## **Step 4: Validation of project proposals for Energy Transformation Projects**

Ecology, or a recognized third party, must validate the project plans for ETPs. Ecology will establish processes and procedures for using a third-party verification service, and will designate a form and process for verifiers to sign a conflict of interest declaration. The electric utility can also accomplish validation of their project plans through a voluntary request to Ecology. In this case, Ecology will perform the validation.

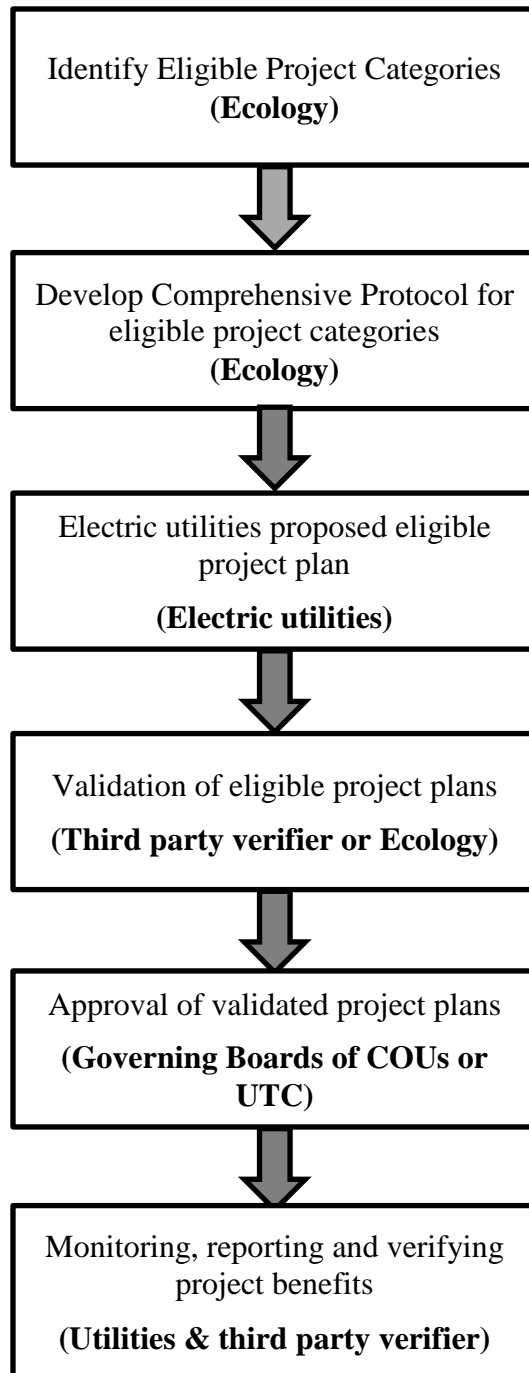


### **Step 5: Approval of Energy Transformation Projects**

After electric utilities have created project plans for ETPs in the appropriate format, and the project plans conform to the requirements of the comprehensive protocol through a validation process, the appropriate approving body (the governing board of a COU or the UTC) can consider the project plans detailing the proposed ETP for approval.

### **Step 6: Monitoring, reporting and verification of Energy Transformation Projects**

The appropriate approving body for an electric utility implements monitoring, reporting, and verification of the benefits from implementing an approved ETP. Ecology has no role in this step of the implementation of the rule, beyond developing and updating the comprehensive protocol.



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## **Informing and Educating Persons Affected by the Rule**

To inform and educate stakeholders affected by the rule, Ecology is maintaining a ListServ (email notification list) and a rulemaking webpage. Ecology held several public meetings in 2020: January 14, February 12, April 9, May 13, and October 6.

Ecology will post and maintain documents on the agency website to inform and educate persons affected by the rule, including:

- a list of eligible categories of ETPs, and
- a comprehensive protocol and supporting documents detailing criteria for use by electric utilities and the manner in which to use them for projects intended to serve as ETPs, and
- a guidance document detailing the processes and procedures for using a third-party verification service.

Ecology makes documents available in alternative forms upon request.

## **Promoting and Assisting Voluntary Compliance**

Ecology continues to promote voluntary compliance through technical assistance when electric utilities need support.

Staff in the Air Quality Program are providing technical assistance. Program staff are available to respond to inquiries from stakeholders. The Contact Information section identifies key staff who will respond to technical questions.

The actions mentioned above in the Informing and Educating Persons Affected by the Rule section promotes voluntary compliance.

## **Evaluating the Rule**

Electric utilities will use the GHG emissions content calculations developed in the rule to report information to Commerce and the UTC. Ecology will collaborate with these state partners to evaluate whether the rule is achieving its intended purpose.

The rule adopts the unspecified electricity emission factor recently established by the Washington State Legislature in Chapter 19.405 RCW. Ecology will periodically evaluate whether an update to this factor is appropriate. The evaluation will consider consistency with values used by other states in the western region.

Ecology will use feedback received during public comment periods required by the rule to evaluate whether the rule achieves its purpose regarding energy transformation projects. The rule requires Ecology to author and maintain a comprehensive protocol, which contains detailed criteria, methodologies, and procedures for use by electric utilities for projects intended to serve

as ETPs. Ecology will evaluate the protocol every six months and update as necessary. Ecology will modify or expand the protocol to reflect new information, to improve the applicability of the embodied information to existing projects and to ensure the ability of the protocol to incorporate and account for new projects.

## **Training and Informing Ecology Staff**

Ecology staff responsible for implementing this rule has been working directly with the affected parties and are already familiar with the nuances of the rule. Additionally, there are external resources available should the need arise. Air Quality Program staff can reach out to the Commerce and the UTC.

## **List of Supporting Documents that May Need to be Written or Revised**

Ecology must develop and maintain a list of eligible categories of ETPs. Ecology must begin preparation of an initial list within thirty days after the effective date of this chapter. Ecology will post the list on its website and invite the public to comment. Not less than ninety days after the close of the comment period, Ecology will post a revised initial list. Future modifications or additions to this initial list must go through a public review and comment process for at least forty-five days.

Ecology must author and maintain a comprehensive protocol, containing detailed criteria, methodologies, and procedures criteria for use by electric utilities for projects intended to serve as ETPs. Ecology will evaluate protocol every six months and update as necessary. Ecology will modify or expand the protocol to reflect new information, improve the applicability of the embodied information to existing projects and to ensure the ability of the protocol to incorporate and account for new projects.

Ecology must provide a guidance document detailing the processes and procedures for using a third-party verification service to validate or verify an ETP. Ecology must designate a conflict of interest form. An electric utility may voluntarily request Ecology to perform validation of their project plan. As part of this validation, Ecology must develop validation report.

## More Information

- [CETR distribution list](#)<sup>1</sup> to receive updates on this and the permanent rulemaking
- [Rulemaking website](#)<sup>2</sup> for rulemaking activities and documents
- [Chapter 19.405 RCW](#)<sup>3</sup>
- [Department of Commerce Clean Energy Transformation Act website](#)<sup>4</sup>
- [Utilities and Transportation Commission Clean Energy Transformation Act website](#)<sup>5</sup>
- [Department of Health Clean Energy Transformation Act website](#)<sup>6</sup>

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<sup>1</sup> <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=ECOLOGY-CLEAN-ENERGY-UPDATES>

<sup>2</sup> <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-444>

<sup>3</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=19.405>

<sup>4</sup> <https://www.commerce.wa.gov/growing-the-economy/energy/ceta/>

<sup>5</sup> <https://www.utc.wa.gov/regulatedIndustries/utilities/energy/Pages/CleanEnergy.aspx>

<sup>6</sup> <https://www.doh.wa.gov/CETA/CIA>

## **Contact Information**

### **Technical Assistance – Energy Transformation Projects**

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