



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 02, 2020

TIME: 9:44 AM

WSR 20-18-096

Agency: Department of Ecology AO #19-08

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 19-21-123 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject)

The Washington State Department of Ecology (Ecology) is proposing a new Clean Energy Transformation Rule (Chapter 173-444 WAC) that electric utilities will use to comply with parts of the Washington Clean Energy Transformation Act (CETA), Chapter 19.405 RCW.

For more information on this rulemaking visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-444>

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 6, 2020	1:30 p.m. PDT	Webinar only	<p>Presentation, question and answer session followed by the hearing.</p> <p>We are also holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.</p> <p>Join online and see instructions: <a href="https://watech.webex.com/watech/onstage/g.php?MTID=e7b95605d1c31802bacf295561aa6656d">https://watech.webex.com/watech/onstage/g.php?MTID=e7b95605d1c31802bacf295561aa6656d</a></p> <p>For audio call: US Toll number 1-415-655-0001 or Toll-free number 1-855-929-3239 and enter access code 133 433 8151. Or to receive a free call back, provide your phone number when you join the event.</p>

Date of intended adoption: December 23, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Debebe Dererie

Address: Send US mail at:  
Department of Ecology  
Air Quality Program  
PO Box 47600, Olympia, WA 98504-7600.

Or

Send parcel delivery services to:  
Department of Ecology  
Air Quality Program  
300 Desmond Dr. SE, Lacey, WA 98503

Email: Submit comments by mail, online, or at the hearing(s).

Fax: N/A

Other: Online: <http://aq.ecology.commentinput.com/?id=DNfCV>

By (date) October 14, 2020

**Assistance for persons with disabilities:**

Contact Ecology ADA Coordinator

Phone: 360-407-6831

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.

Email: [ecyADAcordinator@ecy.wa.gov](mailto:ecyADAcordinator@ecy.wa.gov)

Other: Visit <https://ecology.wa.gov/accessibility> for more information

By (date) September 29, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The proposed rule implements parts of CETA, which was passed into law in 2019. The rule:

- Establishes a process for determining what types of energy transformation projects (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 assigning greenhouse gas (GHG) emissions to electricity.

**Reasons supporting proposal:**

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

- Establish requirements for energy-related projects (referred to as ETPs), other than electricity generation, that reduce GHG emissions and fossil fuel consumption. CETA requires Ecology to consult with the Washington State Department of Commerce and the Washington Utilities and Transportation Commission in establishing these requirements. 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 the Washington State Department of Commerce

The proposed rule provides the mechanism to identify, develop, and evaluate certain energy-related projects that are eligible for compliance under CETA. The implementation of the rule:

- Creates opportunities for electric utilities to invest in ETPs to support them to comply with the GHG-neutral electricity standard required under CETA.
- Provides market incentives. As electric utilities invest in ETPs to benefit from their GHG emission reduction potentials, the ETPs become economically more attractive, increasing their chance of being implemented.
- Assures energy agencies implementing CETA, interested stakeholders, and the general public that ETPs meet the requirements and standards of quality that CETA puts into place.

Additionally, the rule provides consistency across electric utilities on how they calculate the GHG emissions in electricity they supply in Washington as they prepare compliance documents for the state energy agencies.

**Statutory authority for adoption:** RCW 19.405.020(18), RCW 19.405.040, and RCW 19.405.100

**Statute being implemented:** Chapter 19.405 RCW – Washington Clean Energy Transformation Act

**Is rule necessary because of a:**

Federal Law?

Yes  No

Federal Court Decision?

Yes  No

State Court Decision?

Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**Name of proponent:** (person or organization) Department of Ecology

Private

Public

Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Debebe Dererie	300 Desmond Drive SE, Lacey, WA 98503	360-407-7558
Implementation:	Bill Drumheller	300 Desmond Drive SE, Lacey, WA 98503	360-407-7657
Enforcement:			

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name: N/A  
Address: N/A  
Phone: N/A  
Fax: N/A  
TTY: N/A  
Email: N/A  
Other: N/A

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Debebe Dererie  
Address: Department of Ecology  
Air Quality Program  
PO Box 47600, Olympia, WA 98504-7600  
Phone: 360-407-7558  
Fax: N/A  
TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.  
Email: debebe.dererie@ecy.wa.gov  
Other: N/A

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4).

Explanation of exemptions, if necessary:

We analyzed the costs of the proposed rule. Most of the utilities operating in WA are publicly-owned. There are three investor-owned utilities, and all of them have more than 50 employees.

As the proposed rule does not impose compliance costs on any small businesses, this rulemaking is exempt from the requirements of the Regulatory Fairness Act (Chapter 19.85 RCW) according to RCW 19.85.025(4), which states, "This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses."

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Debebe Dererie  
Address: Department of Ecology  
Air Quality Program  
PO Box 47600, Olympia, WA 98504-7600 (US mail).


Phone: 360-407-7558

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711. To request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>.

Email: [debebe.dererie@ecy.wa.gov](mailto:debebe.dererie@ecy.wa.gov)

Other: N/A

<b>Date:</b> September 2, 2020	<b>Signature:</b> 
<b>Name:</b> Heather Bartlett	
<b>Title:</b> Deputy Director	