

# Draft Energy Transformation Project Rule Outline

This outline is a first step on the path toward rule language, but not a draft rule. The goal of this is to provide a sufficient level of clarity to facilitate meaningful discussion and highlight key discussion areas.

## **I. Definitions**

Definitions are not included here, but definitions in the statute will be replicated as needed along with additional terms. Words *in italics below* are terms not in statute where new definitions are likely.

## **II. Types of Energy Transformation Projects**

- Within 90 days of the effective date of this chapter, Ecology will initiate a process to create an initial list of potentially-eligible types of energy transformation projects.
- This list will identify categories of projects and programs that will be subject to evaluation and screening relative to the conditions, requirements, and criteria established in RCW 19.405.040 for energy transformation projects.
- In order for a project or program category to be included in this initial list, that category must be capable of describing one or more potential types of projects or programs that are capable of meeting all of the following conditions:
  - Providing energy-related goods or services
  - Reducing fossil fuel consumption and greenhouse gases attributable to that consumption
  - Providing benefits to the customers of an electric utility or electric utilities
  - Associated with the consumption of energy in Washington
  - Being enforceable by the State of Washington
  - Quantifiable in either units of energy or units of greenhouse gas emissions
  - Resulting in *permanent* reductions of fossil fuels and greenhouse gas emissions
- In addition to the conditions [above]<sup>1</sup>, any potential types of projects or programs described by these categories must not:
  - Generate electricity for delivery, sale, or other provision of electricity as a good or service
  - Create a new use of fossil fuels resulting in a net increase of fossil fuel usage
  - Be credited as a resource that could meet the standard established in RCW 19.405.040 (1) (a) in addition to potentially being used for the purposes of alternative compliance
- Ecology will include in its evaluation of these project and program categories all of the types of projects and programs listed as items that Ecology may include as types of energy transformation projects in RCW 19.405.020 (18) (b).
- Before initiating the evaluation process, Ecology will provide a 30-day comment period for interested parties to submit to Ecology categories of projects or programs not described in RCW 19.405.020 (18) (b), and any desired justification narrative or other background which they wish to have subject to the evaluative process responsible for creating the initial list.
- Ecology will consult with Commerce and the commission during this evaluation process.

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<sup>1</sup> The [above] notation is simply a placeholder for a future rule cite when final rule language is in place.

- After completing its evaluation, Ecology will post for comment a draft list of potentially-eligible types of energy transformation projects along with an evaluation report summarizing its analysis process. The public comment period for this stage will be not less than 60 days.
- Not less than 90 days after the close of the public comment period, Ecology will post a final list of potentially-eligible types of energy transformation projects.
- Ecology can modify or add to this list after posting the initial list. Additions or modifications to this list must meet the same evaluative standards as with the initial list, as detailed [above].
- Ecology will allow interested parties to submit requests for consideration of additional or modified categories after posting the initial list, through a method approved by Ecology.
- Ecology will send notice and post for comment any proposed additions or modifications to the list for a period of not less than 60 days before Ecology makes a final determination on the change.

### **III. Requirements for Energy Transformation Projects**

- Electric utilities that wish to invest in energy transformation projects must use the processes, criteria, requirements, standards, and methodologies set forth [in this rule].
- A project or program intended as an energy transformation project must fall into a project or program category previously identified on the list of potentially-eligible types of energy transformation projects in order to be considered by Ecology.
- Each project or program intended to serve as an energy transformation project must meet the requirements of a *protocol* that addresses and encompasses one or more of the project or program categories consistent with the list created and maintained [above].
- Ecology will evaluate each project or program intended as an energy transformation project against the requirements of the appropriate protocol in order to make a determination regarding that project or program using the procedures [below].

### **IV. Protocol Requirements**

- A category of potentially-eligible types of energy transformation projects must have a protocol associated with it in order for any projects or programs intended to serve as an energy transformation project to be evaluated in accordance with [the evaluation part of the rule below].
- The goal of the protocol is to ensure that the criteria and requirements established in RCW 19.405.040 (2) are clearly defined, relevant to, and actionable for the projects or programs that fall within that category of potentially eligible types of energy transformation projects.
- Each protocol must include detailed content to address the following required evaluation criteria:
  - Applicability
    - Description of the specific types of projects or programs to which the protocol applies
  - Assessment boundaries
    - Identification of the primary effects of the project or program, such as fossil fuel reductions or energy impacts, and key secondary effects, such as benefits to utility customers, and the geographic regions in which these effects occur
  - Temporal scope
    - Identification of the time scale over which the project or program is expected to persist, and the capability of the project or program to provide the same level of benefits over time, in addition to any procedures for ensuring consistent benefit outputs over time

- Quantification methods
  - Methodologies to be employed to measure effects from the project or program including proration methods, if applicable, and what conversion factor or factors will be used, if necessary, to ensure the project benefits can be expressed in units of energy
- *Baseline* procedures
  - Procedures by which to establish a baseline or benchmark against which to measure project or program performance over time
- Fossil fuel effects
  - Analysis sufficient to demonstrate that the project or program does not create a new use of fossil fuels resulting in a net increase of fossil fuel usage
- *Additionality* tests
  - Procedures or demonstrations that the project or program is not required by another statute, rule, or other legal requirement and also not reasonably assumed to occur absent the investment in the project or program, or if an investment has already been made, not reasonably assumed to occur absent additional funding in the near future
- Monitoring procedures
  - Plans or procedures for ensuring that project or program outcomes are measurable, observable, and recorded over time
- Reporting strategies
  - Documentation of ongoing, planned, or anticipated reporting requirements
- Verification procedures
  - Demonstration or attestation of commitment to third-party verification
- Enforcement regimes
  - A listing of any relevant regulatory or compliance authorities that have some degree of jurisdiction over the project or program.
- Ecology may require that additional information categories be included in a protocol, and may include formatting or organizational requirements to promote consistency.
- Ecology may modify or expand protocols to reflect new information or to ensure the ability of protocols to incorporate and account for new projects or programs. Ecology will post any such modifications to existing protocols for public comment for a period of not less than 30 days.
- After approval by Ecology, Ecology will post all protocols on the agency web site and will be available in alternative forms upon request.

## **V. Submission of Protocols for Ecology Consideration**

- An electric utility or a collection of electric utilities, or a *delegated agent* for that electric utility or group of utilities, may submit a protocol consistent with the requirements [set forth above] for consideration by Ecology.
- The protocol must address a specific type, or specific types, of projects or programs that fall within one or more of the project or program category or categories identified in the list of potentially-eligible types of energy transformation projects established [above in the first section].
- If a protocol for a given category is in the approval process, than Ecology will finish its approval process for that protocol rather than begin considering any submitted alternative protocol.
- Submission of the protocol and supporting materials must be in a manner approved by Ecology.

- Ecology will post a list and status notification for protocol submissions to inform interested parties what project or program categories are, or will be, covered by approved protocols.
- If a project or program category already has an approved protocol, suggested modifications to an existing protocol will be considered by Ecology, through a method approved by Ecology.

## **VI. Evaluation of Potential Protocols**

- Ecology will evaluate protocols submitted to Ecology in accordance with the procedures [below].
- Ecology will first conduct a completeness evaluation to ensure that all necessary components of the protocol and sufficient supporting materials are included and provide enough detail and clarity sufficient for evaluation.
- If Ecology determines a submitted protocol and the supporting materials are insufficient or incomplete, Ecology will notify the applicant. A time limit for remedying the problem will be provided by Ecology. Extensions for good cause may be approved by Ecology at its discretion.
- If the applicant is able to address all issues with the protocol or supporting materials within the time period provided by Ecology, the evaluation process will continue to the next phase. If the applicant is unable to remedy the identified issues, the evaluation process may be put on hold by Ecology.
- After Ecology determines that the documentation requirements for a potential protocol are complete, Ecology will post the relevant documents for public comment for a period of not less than 60 days.
- Ecology will then conduct a technical review of the proposed protocol. Ecology will evaluate the protocol against the requirements for protocols [above] using expert judgement within the agency and at Commerce, the commission, and other relevant state agencies, as well as based on the comments received during the public comment process. Ecology may convene stakeholder meetings or dialogue during this process at its discretion, based on the complexity of the issues involved.
- Upon completion of its review, Ecology will provide one of the following two appraisals:
  - Protocols that are initially determined to meet all requirements set forth [above] will be given a “provisional approval” status.
  - Protocols that do not appear to meet the necessary requirements will be given an “incomplete” status. Ecology will provide an explanation of the factors that led to that appraisal to the applicant within 30 days of the status determination.
- Applicants may resubmit for further Ecology consideration a revised protocol that received an appraisal of being “incomplete,” in accordance the procedures established [above].
- Protocols that receive a “provisional approval” status will be posted for public comment for 60 days, along with the supporting documentation and, if applicable, other relevant information.
- Ecology will review the public comments for protocols that are in the provisional approval stage, and make a final determination considering any new information or analysis offered in the comments.
- If Ecology determines that the information provided in the public comments warrants reexamination or further clarification of the protocol, the protocol will be reappraised as being “incomplete” and moved to the “incomplete” stage in the process as described [above].
- After taking into account all public comments and expert judgement throughout the process, those protocols that have clearly met the necessary standards established in this rule will be judged to be “approved” and will now be eligible for the purposes of evaluating projects and programs, consisting with the purposes defined [above in the protocol section].

## **VII. Submission of Proposals for Potential Energy Transformation Projects**

- An electric utility or a collection of electric utilities, or a *delegated agent* for that electric utility or group of utilities, may submit for consideration by Ecology a proposal for a project or program intended to serve as an energy transformation project.
- Any project or program intended to serve as an energy transformation project must not exist before being proposed as a project or program intended to serve as an energy transformation project.
- The proposed project or program must fall within the scope of a protocol that has been approved by Ecology or that is in the process of being approved by Ecology.
- A new protocol and an accompanying project or program proposal may be submitted simultaneously. However, Ecology will prioritize work on the protocol and must approve the protocol before any final determination will be made in regards to the project or program proposal.
- An application form for the project or program proposal, relevant documentation, and other supporting materials must be submitted in a manner approved by Ecology.
- The application for the project or program proposal will require the applicant to demonstrate that all of the requirements for the applicable protocol have been, will be, or are capable of being met.
- Ecology will post a list and status notification for project or program proposal submissions so that interested parties may be aware of ongoing energy transformation project activity.

## **VIII. Evaluation of Energy Transformation Project Proposals**

- Ecology will evaluate any proposal for a project or program intended to serve as an energy transformation project in accordance with the procedures [below].
- Ecology will first conduct a completeness evaluation to ensure that all aspects of the project or program proposal and supporting application are included, and that the documentation provides a level of detail and clarity sufficient for further evaluation.
- If Ecology determines the proposal, application, or supporting materials are insufficient or incomplete, Ecology will notify the applicant. A period of time for remedying the problem will be provided by Ecology. Extensions for good cause may be approved by Ecology at its discretion.
- If the applicant is able to address all issues with the proposal or supporting materials within the time period provided by Ecology, the evaluation process will continue to the next phase. If the applicant is unable to remedy the identified issues, the evaluation process may be put on hold by Ecology.
- Once Ecology judges that the proposal and application materials for a project or program are complete, Ecology will post the relevant documents for public comment for a period of 30 days.
- Upon completion of its review of a project or program proposal, Ecology will provide one of the following appraisals:
  - Projects or program proposals that appear to meet all requirements set forth in this rule and satisfy the expert judgement of reviewers and public comments will be given a “provisional recognition” status.
  - Projects or program proposals that do not appear to meet the necessary requirements, but that appear to have the potential capacity to do so will be given an “incomplete” status. Ecology will provide an explanation of the factors that led to that determination.
  - If a project or program, as described in its proposal and application, appears to have no chance to resolve the issues identified in this process, Ecology may reject the project or program proposal, and label the project or program proposal as being “rejected.”

- Applicants may submit for Ecology reconsideration a revised proposal and supporting documents for a project or program proposal appraised as being “incomplete” upon initial evaluation.
  - Projects and program proposals that receive a “provisional recognition” status will be posted for public comment for 30 days, along with the application documents and other relevant information.
  - Ecology will review the public comments for project and program proposals that are in the provisional approval stage and make a final appraisal decision.
  - If Ecology determines that the information provided in the public comment process warrants reexamination or further clarification of the project or program proposal, that project or program proposal is “incomplete” and will move to the stage for other projects or program proposals considered “incomplete” as noted [above].
  - After taking into account all public comments and expert judgement throughout the process, those projects or program proposals that have met the necessary standards established in this rule will be “recognized” by Ecology as having met the requirements in this rule.
  - Projects and program proposals achieving the status of being “recognized” by Ecology are now eligible for consideration, and ultimate approval or rejection by the governing boards of consumer-owned utilities, the commission, or other applicable approval bodies with the necessary jurisdiction over the financial decisions of the electric utility or utilities proposing the project or program.
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Additional areas for potential rule language may include:

- Prioritization procedures for ETP consideration by Ecology
- Post-project completion requirements or procedures, such as:
  - Verification
  - Reporting
  - Project evaluation
  - Validation of projects and programs relative to their proposals

These types of post-project requirements may be more appropriate for Commerce or UTC rulemaking.

Comments on this document and the Ecology CETA rulemaking are welcome!