

## May 13, 2020 Stakeholder Meeting Summary

### Clean Energy Transformation Rule, Chapter 173-444 WAC

#### Participants

Entity Name	Participant Name
<b>Avista</b>	Shawn Bonfield, Kevin Booth, James Gall, Amanda Ghering, Bruce Howard, John Lyons, John Rothlin, Darrell Soyars
<b>AWC</b>	Maggie Douglas
<b>BPA</b>	Alisa Kaseweter, Liz Klumpp, Debra Malin, Paul Munz, Kathryn Patton
<b>Center for Resource Solutions</b>	Todd Jones
<b>City of Ellensburg</b>	Julie Coppock
<b>City of Port Angeles</b>	Gregg King
<b>City of Richland</b>	Sandi Edgemon
<b>City of Tacoma</b>	Lisa Rennie
<b>Clark PUD</b>	Matt Babbitts, Terry Toland
<b>Climate Solutions</b>	Vlad Gutman-Britten, Kelly Hall,
<b>Cowlitz PUD</b>	Deanna Carlson, Steve Taylor
<b>Commerce</b>	Glenn Blackmon, Michael Breish, Peter Moulton
<b>DVC Law</b>	Corinne Milinovich
<b>Ecology</b>	Jason Alberich, Ben Blank, Emily Bruns, Neil Caudill, Debebe Dererie, Bill Drumheller, Martha Hankins, Katya Kniazeva, Sam Wilson, Andy Wineke
<b>Friends of the San Juans</b>	Lovel Pratt
<b>Governor's Office</b>	Lauren McCloy
<b>GTH-GOV</b>	Matt Doumit
individual	Divino Ramps, Luciano Torres
<b>i-SUSTAIN</b>	Jayson Antonoff
<b>Mason PUD 3</b>	Koral Miller, Michele Patterson
<b>NAVFAC Northwest</b>	Matthew Hamilton
<b>NW Energy</b>	Joni Bosh, Amy Wheeless
<b>Pacific Corp</b>	Katherine Olson, Amanda Sargent, Zepure Shahumyan
<b>Peninsula Light Co.</b>	Shital Saini, Sharon Silver
<b>Powerex</b>	Rob Campbell, Michael Corrigan, Connor Curson
<b>Puget Sound Energy</b>	Kara Durbin, Keith Faretra, Brandon Gimper, Brandon Houskeeper, Molly Middaugh
<b>Renewable Northwest</b>	Katie Ware
<b>Seattle City Light</b>	Christine Bunch, Mendy Droke, Trevor Lessard, Annete Pearson
<b>Seattle University</b>	Hannah Thompson-Garner
<b>Snohomish PUD</b>	Suzanne Frew, Ian Hunter, Clark Mclsaac
<b>Southshore Environmental</b>	Phil Mackey
<b>University of Washington</b>	Jessica Canet
<b>Utilities and Transportation Commission</b>	Amy Andrew, Kate Griffith, Andrew Rector, Jim Woodward
<b>Warren Group</b>	Dave Warren
<b>WEC</b>	Eleanor Bastian
<b>WPUDA</b>	Nicolas Garcia
<b>WRECA</b>	Kent Lopez

## GHG Emission Calculations Methods

### Key messages

- **Calculation method for aggregate source:** The draft rule now includes a calculation method for electricity with known sources (fuels) that are not traceable to a specific power plant, defined as “aggregate source.” This provides:
  - GHG emission calculation methodology for asset-controlling sources
  - Sources that cannot be traced back to a specific power plant
- **Alternate data sources:** The draft rule also allows utilities to request their regulating agencies to allow alternative data sources, if the data is not reported to EIA.
- **Calculation of transmission losses:** We have developed the calculation for transmission losses in consultation with Department of Commerce and Utilities and Transportation Commission. The regulatory agencies requested utility claims to be measured at the busbar of the generating power plant. The transmission loss calculation method prescribes an adjustment of zero MWh in that case. The draft rule also provides different options for estimating transmission losses, if electric utilities cannot report their specified electricity as measured at the busbar of the generating power plant.
- **Unspecified electricity emission factor:** We have not updated the emission factor for unspecified electricity since this requires significant work that we cannot accomplish within the timeframe established for this rulemaking. It is also a recently established factor by the legislature.
- **EPA GHG emission data availability:** If EPA has not yet published emissions values for the calendar year, the draft rule instructs utilities to use the most recent five-year rolling average published emissions values.
- **Roles:** This rule is a technical manual that shows how to calculate the GHG emission content of electricity. It does not establish an additional reporting requirement to Ecology. Utilities directly report their GHG emissions to their regulating agencies as specified in their rules.

### Comments and responses

- **Comment:** Some stakeholders would like to see the rule specify the time interval at which the emission factor for unspecified electricity would be updated.
  - **Response:** The statute allows Ecology to update periodically the emission factor for unspecified electricity. We think the amount of work and stakeholders’ participation necessary to update the emission factor is not suitable for the short timeline established for this initial rulemaking. Moreover, the emission factor was recently established by the legislature. Thus, we are planning to update the factor in the next rulemaking. As rulemaking priorities are set at agency level and affected by multiple factors, we cannot commit to a timeline to update the emission factor for unspecified electricity.
- **Comment:** The calculation of the annual average GHG emission content in electricity is an approximation. The GHG emission content in electricity varies in time (for example, in seasons) and the appropriate level of granularity for calculating the GHG emission content in electricity depends on the type of policy question.
  - **Response:** Thank you for your comment.
- **Comment:** What is the purpose of having the second sentence in 040(3)(b)(v) of the draft rule that says “provide a second total that excludes nonemitting electric generation and renewable resources?”
  - **Response:** In this rule, we are trying to establish a standardized method for GHG emission calculations of energy that serves beyond CETA. CETA treats GHG emissions from

renewables and nonemitting sources in a different way compared to the way EPA does. Providing two totals makes the calculation serve general and CETA purposes.

- **Comment:** Delegation of authority – The draft rule references other state agencies’ rules or their successors. Is it legally possible to reference other state agencies’ rules like this or do you need to revise your rule after the state agencies adopted their new rules?
  - **Response:** We included the successor rules phrasing because Utilities and Transportation Commission is in the process of revising their rule that references this rule. Normally, when we reference rules from a federal agency like EPA, we would specify the date of adoption of that specific rule. However, when we reference rules of another Washington state agency, we are delegating our authority to ourselves, within state agencies as a whole, not to an outside party. As this draft rule will go through legal review, we will revise these references and include dates of adoptions if necessary.
- **Issue:** How does the statute indicate that transmission losses should be included in the GHG emission content calculation? If the inclusion of transmission loss is justified based on the unspecified emission factor from California that included a two percent default value of transmission losses, why does the default transmission loss in this rule become five percent?
  - **Response:** The emission factor for unspecified electricity in the statute was derived from California’s emission factor and that was adjusted to include transmission losses. The calculation of transmission losses was developed with the Department of Commerce since they regulate the electric utilities. Commerce estimated the statewide average annual transmission-related losses are about five percent. The regulatory agencies want utility claims to be measured at the busbar. Thus, the transmission losses are defined by the method as zero MWh. The concern on the transmission losses number is noted.
- **Issue:** If is a new 40MW plant that uses natural gas as a primary fuel is being built, could you walk the permitting process thru to completion?
  - **Response:** As the topic is not related to this rulemaking, we will follow up with the information request after this stakeholder meeting.

## Energy transformation Projects (ETP)

### Key messages

- **Statutory basis for Energy Transformation Projects (ETPs)**
  - RCW 19.405.40(2): Investments in energy transformation projects *must use criteria developed by the department of ecology*, in consultation with the department and the commission.
  - RCW 19.405.100(7): The department of ecology must adopt rules, in consultation with the commission and the department of commerce, *to establish requirements for energy transformation project investments* including, but not limited to, *verification procedures*, reporting standards, and other logistical issues as necessary.
- **Key changes in requirements and structure from the draft rule outline**
  - **Semantics of “project:”** The statute defines ETPs as being projects and programs. Thus, we have included a definition of project in this draft rule that includes programs. We recommend that whenever you see the term project in this draft rule language, you think of both projects and programs.
  - **Definition of “permanent:”** RCW 19.405.040(2)(b) requires Ecology to look at other jurisdictions in setting the standard and length of time for permanence. Once the emission reductions occur in energy-related combustion, permanence is not relevant as the emission

reduction is not reversible. The most likely situation where permanence may be relevant to ETPs is geologic sequestration. While the international standard for permanence in geologic sequestration is 100 years, Ecology has an existing rule under Chapter 80.80 RCW that defines permanence as 99 percent of the carbon remains sequestered over 1000 years. Thus, this rule defines permanence as a hierarchy of requirements.

- **Accelerated process for identifying eligible project categories**
  - In the previous draft rule outline, we had proposed a two-phase process for identifying eligible categories. Stakeholders had strong interest to benefit from existing methodologies and protocols from other jurisdictions. Thus, we have included five project categories in this rule to accelerate the identification of such eligible project categories. These project categories are thought to be relatively easy to assess compared to the other energy technologies.
  - The main reasons for proposing these five eligible project categories in this rule include:
    - There are existing protocols (for example, EV charging) that may need some additional modules or elements to adapt them to meet CETA requirements.
    - There are existing emission quantification methodologies for some of the technologies (for example, renewable hydrogen).
    - Their potential for discrete project types that makes it easier to assess, where there is an opportunity to prevent overlap between project types to avoid potential double counting.
- **Proposed protocol approach:** We proposed a single “master” protocol that will expedite the first use for ETP and that would be updated over time to fit some specific ETP categories.
- **Structure of the rule:** We have created more direct linkage to Ecology’s major statutory mandates and simplified the rule language around these three key areas: eligible project categories, criteria, and process and procedure.
- **Validation of project plan/proposal:** In the previous draft rule outline, Ecology would have the sole ETP project proposal validation against the protocol. This draft rule proposed two alternatives for project proposal validation using third-party verifier or Ecology “advisory opinion.” Third-party verification is a well-established practice in the Northwest for energy efficiency. Ecology’s “advisory opinion” is somewhat similar to the Department of Commerce’s role in the technology evaluation under the Energy Independence Act. We would like to get stakeholder feedback about these approaches.
- **Verification procedures:** The draft rule includes post-project verification, monitoring, and reporting as required by the law.

### Comments and Responses

- **Comment:** How does Ecology plan to quantify the energy benefits of infrastructures like electric vehicle charging stations or renewable energy production, distribution, and fueling in terms of megawatt-hours of energy benefits from ETP?
  - **Response:** Including a project category as an eligible ETP may mean it is possible to do such quantification. However, the quantification methodology will be developed in the protocol that will be developed after the rule is adopted. For example, the “existing protocol” for electric vehicle charging stations provides answers to such questions.
- **Comment:** How does this rule intend to prevent double counting from the three separate categories of hydrogen production, distribution, and fueling?

- **Response:** This will be addressed in the protocol that will be developed after the rule is adopted. The project will be credited only once for production, distribution, or fueling. In practice, we may need to combine all three stages in one protocol to avoid multiple time crediting the benefits from each stage. This will be figured out in the development of the protocol.
- **Comment:** Is there an opportunity to consider renewable natural gas (RNG) to be in the first list of project categories that are eligible for ETP? There are existing methodologies for RNG.
  - **Response:** Having these five project categories in the rule does not mean we are excluding the other types of projects that are not listed in this rule. As explained above, these project categories that we are proposing to include in the rule are thought to have the potential for discrete projects, and potentially easier to assess their benefits because existing protocols or methodologies exist. RNG is a complicated type of project to assess. For example, assessment of RNG's additionality is complicated as there are a variety of laws, rules, and incentives for the renewable natural gas projects. Similar to RNG, the other energy-related technologies are complicated and thus we need to be analyze them after this rule is completed.
- **Comment:** Under the Clean Buildings Act, a gas utility must complete a conservation potential assessment and do all reasonable conservation measures to meet the potential. Since this is a mandate, why is gas efficiency an eligible ETP?
  - **Response:** The inclusion of "natural gas energy efficiency and conservation measures" as an eligible project category does not mean a natural gas project is automatically eligible. It means a natural gas energy conservation project has the potential to be eligible if it meets all the requirements. For example, for additionality, such a natural gas energy conservation project should not be required by existing law, rule, or other requirement; and should not already be a beneficiary of some other incentive program. Most natural gas energy efficiency projects will not be eligible because they will not be able to meet the additionality criteria. There could be some natural gas energy efficiency and conservation projects that are not cost-effective due to existing market or policy barriers.
- **Comments:** Initially, the understanding was that there would be a matrix of criteria to quantify the energy benefits of some projects, such as electric vehicle charging stations. This would remove the need for a third-party verification, which is burdensome. ETPs are competing against renewable energy credits and the administrative penalty. Why do we need third-party verification for electric vehicles charging stations?
  - **Response:** Ecology's primary role is to establish criteria and processes that we will establish under this rule and through the master protocol that will follow the adoption of this rule. Third-party verification is a long-standing practice in the energy sector in the Northwest. Energy projects are generally controversial and there is strong interest to establish objective criteria to check if ETPs meets the requirements in CETA. We understand the verification requirement can vary among project categories and that is the benefit of addressing such details as part of the development of the protocol. We will address this during the development of the protocol.
- **Comment:** WAC 173-444-070(3)(c)(ii) requires "the project to provide the same level of benefits over time." Does the law derive this requirement? For example, in case of electric vehicle charging station project, we expect the number of vehicles that will be charging at the station to increase over time. That increase in benefits over time should be accounted in the project.

- **Response:** The requirement is typically used in setting the baseline performance. We agree with your assessment. We will address your concern. The intention was to ensure the delivery of the projected benefits over time as planned.
- **Comment:** WAC 173-444-070(3)(f) requires sufficient analyses to demonstrate equity effects of the proposed projects. This comes out of the statutory requirement in RCW 19.405.040 that says all customers must benefit from the transition to cleaner energy. We view this as a general requirement for consideration in meeting the GHG neutrality standard, but not a specific requirement that requires demonstration in every action.
  - **Response:** We included this requirement in the draft rule because of a persuasive argument provided by stakeholders. RCW 19.405.040(8) requires “electric utility must ensure that all customers are benefiting from the transition to clean energy.” We interpreted this requirement in RCW 19.405.040(8) to apply for both the GHG neutrality standard as well as the alternative compliance options, including ETPs. This is because the statute says “...in complying with this section,” which includes the requirements for ETPs imbedded in that section.
- **Comment:** WAC 173-444-070(3)(l) on enforcement regimes requires “identification of relevant regulatory or compliance authorities that have jurisdiction over an aspect or aspects of the project.” I am not sure if your intention is to provide all varieties of permitting authorities related to energy projects. You may need to tighten the scope to what you want utilities to identify.
  - **Response:** This requirement orders Ecology to develop requirements to ensure that the ETP is enforceable in Washington. We agree with the comment that one could interpret this to require listing all sorts of laws. That probably is not necessary. We would like to get your input about this issue.
- **Comment:** Has the Attorney General Office analyzed the potential issue related to the state constitution and fuel switching? In other words, could the rulemaking provide clarity to public utilities that utilities can invest in such projects to meet CETA?
  - **Response:** Ecology is authorized to establish the program infrastructure for ETPs. The higher level foundation for ETPs is that the legislature authorized electric utilities to find and invest in energy-related projects in other sectors, provided that the projects have GHG reduction benefits and meet the other requirements. If there is some constitutional issue that would be in the statute, it does not seem resolvable in this rule. The ultimate authority to approve investment in ETPs is not with Ecology. We are establishing the infrastructure to identify and evaluate eligible ETPs. Moreover, this rule addresses the implementation of ETPs in 2030 through 2044. There could be changes to address such constitutional issues. Electrical utilities are investing in electrifying the transportation sector. We would like to get your written comment on this issue.
- **Comment:** Would like to see "building electrification" as an eligible project category in the first list.
  - **Response:** The draft rule establishes a process for identifying eligible project categories for ETPs that include a public comment period. The first list of project categories in the rule are identified to be easier to assess. One of the key requirements for ETPs is additionality. Eligible project categories should be beyond what is required by laws, rules, and other regulatory requirements. We encourage you to recommend such project categories with more details, preferably discrete project types, for inclusion in the list of eligible project categories.

- **Comment:** In the northwest region, there is long standing experience of evaluating the energy conservation benefits and savings; for example, if one uses LED bulbs, based on established protocol without third-party post-implementation verification. Is there an opportunity to skip third-party verification for such projects, as that may not provide significant public value in such scenarios? How can we benefit from ETPs in a cost-effective manner and make it less burdensome?
  - **Response:** These are the types of details that will be addressed in the development of protocol. The verification requirements will vary among project categories. There could be project categories where the quantification and verification requirements are fairly easy to implement. There could be extensive details in the protocol for assessing the additionality of projects, in which case the projects can be considered preapproved for additionality. Such details can be addressed in the development of protocols.