

March 16, 2020 Stakeholder Meeting Summary Clean Energy Transformation Rule, Chapter 173-444 WAC

Participants

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WEC	Eleanor Bastian
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Individuals	Victor Crovesk, Rubens Quintero, Luciano Torres

Key discussion items

Expanded discussion on protocols in utility operations

- Defined protocols as a compendium of detailed requirements (principles, procedures, criteria, methodologies, etc.) to ensure uniform and consistent application of broader requirements in rule and law across multiple entities. In doing so, the protocols bridge the gap between the broad statutory requirements and the details required to implement projects.
- Protocols make the criteria for ETPs in the statute and rule become actionable for projects. This was demonstrated by using a small wind turbine project (which is not eligible to be an ETP) as an example.

Responses to stakeholders' informal written and stakeholder meeting comments

Ecology provided feedback to stakeholders' comments to align the understanding of the statutory requirements related to ETPs among stakeholders and Ecology. Following the stakeholders' comments, Ecology, the Department of Commerce, and Utilities and Transportation Commission (UTC) discussed this rulemaking.

Clarify statutory requirements for rulemaking

- **ETPs related CETA mandates to Ecology:** The following sections and subsections of the Clean Energy Transformation Act (CETA) requires Ecology to do the following:
 - RCW 19.405.040(2) – develop criteria for ETPs, in consultation with Commerce and UTC
 - RCW 19.405.100 – establish requirements for ETPs including, but not limited to, verification procedures, reporting standards, and other logistical issues
- **Requirements for ETPs:** RCW 19.405.020(18) and RCW 19.405.040(2) established sets of requirements that energy transformation projects must meet. Protocols will use these criteria.
- **Urgency for protocol development:** Ecology has clarified the available options for protocol development and the burden on the project proponent. We also explained that there are no existing protocols that meet all the statutory requirements of CETA that can be adopted from other jurisdictions. However, there are protocols that meet some aspects of CETA that can be adapted toward the development of CETA-compliant ETP protocols.
- **Project proposal evaluation against protocol:** The governing boards for consumer-owned utilities (COUs) and UTC for investor-owned utilities (IOUs) have the authority to approve ETPs under CETA. Ecology does not have authority to approve or disapprove projects. As required in CETA, Ecology is exploring a range of options to establish verification requirements.
- **Project initiation:** RCW 19.405.040(5) allows the use of ETPs as an alternative compliance option only for utilities that invested in the project. CETA does not prevent other entities from proposing potential projects. However, in order to use the project for compliance with CETA, a utility or utilities must invest in the project. Thus, project developers need to work with utilities.

- **Rule needed for implementation of CETA:** According to RCW 19.405.100(9), Ecology is required to adopt this rule by January 1, 2021. Ecology’s plans to meet this statutory deadline. This rule is one element of the ETP program; other elements and procedures will also play a role.

Proposed concepts for revision

Based on stakeholders’ comments and interagency discussion, we are exploring the following direction for the next version of the draft rule:

- **One master protocol:** The feedback we have received from stakeholders is to have protocols as soon as possible. The more detailed the protocol is, the lower the burden on the project proponents. However, to provide a protocol as soon as possible, we are exploring the option of developing one master protocol that would be refined and expanded over time. The master protocol will have components that are applicable for all types of projects. This may be ready in about a year after the adoption of the rule. This concept is similar to the World Resources Institute/World Business Council for Sustainable Development’s The GHG Protocol for Project Accounting (https://ghgprotocol.org/sites/default/files/standards/ghg_project_accounting.pdf).
- **Ecology’s role in project evaluation:** At a previous stakeholder meeting, strong opposition was expressed regarding an Ecology role in project evaluation. Ecology does not have authority for project evaluation. The statute is clear that Ecology establish ETP requirements. Similarly, CETA is clear that compliance will be determined by governing bodies/state auditor for COUs and by UTC for IOUs. However, there is a clear need for a means to ensure projects meet CETA criteria prior to project approval and the responsibility of doing this is a grey area in the statute. Ecology is considering third party verification of project proposal prior to approval by the governing bodies or UTC. We are interested in feedback on this. We will explore Snohomish PUD’s suggested optional verification process by Ecology that would be similar to Commerce’s role in evaluation of renewable energy technologies under the Energy Independence Act.
- **Expediting processes:** The next draft rule will include a more accelerated process for determining potentially eligible project types for ETP. We are exploring how we can expedite this process while meeting the statutory deadline for rulemaking within the confines of the Administrative Procedure Act (APA).
- **Early compliance credit:** There were comments from different groups of stakeholders requesting a mechanism for crediting ETPs prior to 2030. The statute allows the use of ETPs as an alternative compliance mechanism for the 2030 greenhouse neutrality standard. Based on our current understanding of the statute, Ecology does not aim to address this concept in this rulemaking.

Questions and responses

Question: Will information about project cost breakdowns be held confidential by the state?

- **Response:** This type of detail would be in protocols.

Question: How much more detail (shown in the example) would typically be in the protocol versus project application?

- **Response:** The presentation provided a high-level example to demonstrate how hypothetical protocol requirements might be laid out in a protocol document. It is likely that the requirements in a project protocol under this rule would be much more detailed than what was presented in the example.

Question: How are the components of the protocol determined? For example, why do we have to cite other authorities?

- **Response:** The role of the protocol is to allow the project proponent to demonstrate that the project meets the statutory criteria and requirements in CETA. When it comes to the “enforcement” section that was proposed to be part of the protocol, you would cite the authorities in Washington that have jurisdiction over the project.

Question: In addition to a master protocol, should utilities look at any existing specific protocols? For example, could the Verra Verified Carbon Standards “VM0038 Methodology for Electric Vehicle Charging Systems” protocol (<https://verra.org/wp-content/uploads/2018/09/VM0038-Methodology-for-Electric-Vehicle-Charging-Systems-v1.0-18-SEP-2018.pdf>) be adapted for use under CETA?

- **Response:** This is one of the existing protocols that can potentially be adapted quickly. Ecology did a webinar on that protocol about two years ago. We had been working with the developer to use the protocol.

Question: Who are “outside entities” that can propose a project? Who would approve the proposed project?

- **Response:** Outside entities could be project developers that have identified potential ETPs. Assuming the project type is approved as a potentially eligible ETP, a project developer would then need to work with a utility or group of utilities to get a commitment for the investment. For the project to qualify as an ETP under CETA, a utility or group of utilities must make the investment in the project.

Question: Is it Ecology's understanding that utilities will be limited to making investments in their service territory?

- **Response:** The language in CETA appears to suggest that ETPs need only provide benefits to customers of electric utilities broadly and not necessarily the specific utility (or group of utilities) making the investment. Ecology is interested in hearing if others have a different interpretation of that language.

Question: What is Ecology's understanding of an "investment?" Do the utilities have to own the projects or would a long-term contract for the benefits qualify as an investment?

- **Response:** The manner in which the benefits of the project would accrue to the utility (or utilities) is one of the details that would be required in the protocol. There are a number of means by which a utility can obtain benefits over time.

Questions: What level of specificity is Ecology planning to include in the protocols? Take an additionality test for example. Some utilities may want to use their Integrated Resource Plan (IRP) process; others that have no IRP process may want to use their budget. Are you planning to draft protocols as a high-level requirement or to be more specific that require utilities to demonstrate additionality by doing X, Y, and Z? The more flexibility in the protocol requirements, especially on complex components of the protocol, will help not to limit the possible number of projects that could really benefit the state.

- **Response:** It will depend on the nature of the protocol component. In very challenging and complex criteria like additionality, there is likely to be a range of options to demonstrate compliance. The VCS methodology for electric vehicle charging system is an example of something that has a range of options for demonstrating additionality. Other protocol components could be relatively straightforward.