

**WAC 173-442-050 Baseline GHG emissions value for non-EITE covered parties.** (1) Ecology must assign a baseline GHG emissions value to each non-EITE covered party. Covered parties fall into two categories:

(a) **Category 1.** A covered party with covered GHG emissions averaging greater than or equal to 70,000 MT CO<sub>2</sub>e per year during calendar years 2012 through 2016; or

(b) **Category 2.** A covered party which:

(i) Is a voluntary participant who chooses to participate in the program;

(ii) Did not operate between calendar years 2012 through 2016;

(iii) Had average covered GHG emissions less than 70,000 MT CO<sub>2</sub>e per year during calendar years 2012 through 2016; or

(iv) Is a petroleum product importer. This only applies to covered GHG emissions associated with imported petroleum products.

(c) Ecology may adjust the baseline GHG emissions value for Category 1 or 2 covered parties based on:

(i) Reported GHG emissions data when the calculation methodology approved under chapter 173-441 WAC changes.

(ii) Updated annual GHG reports or an assigned emissions level under WAC 173-441-086.

**Table 2  
Baseline GHG Emissions Value Determination for Non-EITE Covered Parties**

<b>Covered Party</b>	<b>Operated 2012 – 2016 (at least 3 calendar years)</b>	<b>Average GHG Emissions (MT CO<sub>2</sub>e/year)</b>	<b>Ecology Action</b>
Category 1	Yes	≥ 70,000	Assign baseline Refer to subsections (1), (2) and (3) of this section
Category 2	Yes	< 70,000	Assign baseline when emissions reach 70,000 MT CO <sub>2</sub> e, or if requested Refer to subsections (1), (4) and (5) of this section
	No		
	N/A or No	≥ 70,000	Assign baseline Refer to subsections (1), (4) and (5) of this section

(2) **Data sources for setting a Category 1 baseline GHG emissions value.** Ecology must use the following sources of data to set a Category 1 baseline GHG emissions value.

(a) Annual GHG emissions reports submitted under chapter 173-441 WAC; or

(b) An assigned emissions level established under WAC 173-441-086.

(c) Petroleum product producers and natural gas distributors must submit to ecology all emissions data submitted to EPA, or required to be retained by EPA, under 40 C.F.R. Part 98, Subparts MM and NN for calendar years 2012 through 2016. This submission to ecology must be complete by March 31, 2017, and consistent with the methods established in chapter 173-441 WAC.

(d) Ecology must use one of the following sources of information to adjust the baseline GHG emissions value of petroleum product producers that adjust their compliance obligation to account for exported petroleum products as specified in WAC 173-442-040 (2)(b):

(i) The petroleum products producer's GHG emissions for calendar years 2012 through 2016 associated with exported petroleum products voluntarily reported by October 31, 2017, using the methods established in WAC 173-441-120; or

(ii) An assigned GHG emissions level for the petroleum product producer's exported petroleum products based on methods established in WAC 173-441-086. Ecology may choose to base the assigned emissions level on either:

(A) GHG emissions data associated with exported petroleum products reported during calendar years 2017 through 2019 using the methods established in WAC 173-441-120; or

(B) Ecology's estimate of the petroleum product producer's GHG emissions data associated with exported petroleum products during calendar years 2012 through 2016.

**(3) Process to calculate a Category 1 baseline GHG emissions value.**

(a) Ecology must calculate the Category 1 baseline GHG emissions value based on the average (in MT CO<sub>2</sub>e per year) of:

(i) Five years of covered GHG emissions data between 2012 through 2016; or

(ii) At least three years of covered GHG emissions subject to (b) of this subsection.

(b) Ecology may omit a specific calendar year from calculating the baseline GHG emissions value when the data meets at least one of the following criteria:

(i) The data represents a significant difference from the average data based on all of the following:

(A) Primarily caused by a change in the GHG emissions calculation methodology approved under chapter 173-441 WAC during the baseline period that is not correctable by adjusting the existing reported GHG data;

(B) The GHG emissions calculation methodology produced a fifteen percent or more difference between that calendar year's GHG emissions and the 2012 through 2016 average of GHG emissions using the methodology in (a) of this subsection; and

(C) The change is not the result of a process or production change regardless of how large, unusual, or outside of the control of the covered party; or

(ii) The calendar year contains a period of curtailment.

(c) Ecology may adjust the baseline GHG emissions value of a natural gas distributor to account for increases or decreases in the natural gas distributor's covered GHG emissions due to changes related to other covered parties' covered GHG emissions as specified in WAC 173-442-040(3). Any adjustment to the baseline GHG emissions value should be designed to maintain a consistent aggregate GHG emission reduction pathway for both the natural gas distributor and the other covered party.

**(4) Setting a Category 2 baseline GHG emissions value.** Ecology must assign a baseline GHG emissions value based on the first three consecutive calendar years after 2012 with average covered GHG emissions during normal operations greater than or equal to 70,000 MT CO<sub>2</sub>e, or when requested by a voluntary participant. Ecology must use one of the following methods to set a Category 2 baseline GHG emissions value consistent with subsection (3)(a) of this section.

(a) Method 1: For existing operations, ecology must set the baseline GHG emissions value:

- (i) Using the average of three years of covered GHG emissions (MT CO<sub>2</sub>e/year) from annual GHG reports (WAC 173-441-120 or 173-441-086);
  - (ii) Ecology may adjust covered GHG emissions using existing reported GHG emissions data when the calculation methodology approved under chapter 173-441 WAC changes.
- (b) Method 2: For modified operations, ecology must set the baseline GHG emissions value for a covered party that modifies its operations using the following methods:
- (i) Existing emission unit: Use method 1; and
  - (ii) New or modified emissions unit: Use method 3.
- (c) Method 3: For new operations that result in a new covered party, ecology must set the baseline GHG emissions value using one of the following methods:
- (i) The average of the first three years of covered GHG emissions (MT CO<sub>2</sub>e/year) under normal operation from annual GHG reports (WAC 173-441-120 or 173-441-086); or
  - (ii) The benchmarking process in subsection (5) of this section.
- (5) **Benchmarking process.**
- (a) Responsibilities for covered parties subject to subsection (4)(c) of this section.
- (i) The covered party must provide requested emissions information to ecology within sixty working days of a request.
  - (ii) The covered party must provide documentation of the following data to allow ecology to calculate actual or projected actual emissions:
    - (A) Information about the GHG emitting processes;
    - (B) Actual or projected production data;
    - (C) Actual or projected operating days and hours of operation during a calendar year;
    - (D) Other information requested by ecology;
  - (iii) Application materials submitted to ecology for a permit action need only reference dates of the submittal and the office that received the information.
  - (iv) The covered party must provide access to personnel or hired consultants who can assist ecology in assigning the baseline GHG emissions value.
- (b) Ecology responsibilities. Ecology must set the baseline GHG emissions value using the following method:
- (i) Ecology must set the baseline GHG emissions value at an emissions rate equal to the ninety percent most efficient facility in all surveyed stationary sources using the benchmarking process in (b)(ii) of this subsection.
  - (ii) In establishing the benchmark, ecology must:
    - (A) Use data from similar or identical existing parties and sources.
    - (B) Determine the appropriate production or product measure for the benchmark.
    - (C) Use operating and emissions data from existing sources from calendar years 2012 through 2016. Beginning in January 1, 2017, use emissions data for the most recent three years of data.
    - (D) Calculate covered GHG emissions using methodologies in WAC 173-441-120.
    - (E) Estimate covered GHG emissions using best available information when a covered party fails to provide emissions data within sixty working days of a request.

(c) To set the baseline GHG emissions value, ecology may request from a covered party:

(i) Information about the GHG emitting processes included in a notice of construction, prevention of significant deterioration, or nonattainment area new source review permit application.

(ii) Materials submitted to a nonecology permitting authority related to a permit application.

(iii) Other information necessary to calculate actual or projected emissions.

[Statutory Authority: Chapters 70.94, 70.235 RCW. WSR 16-19-047 (Order 15-10), § 173-442-050, filed 9/15/16, effective 10/16/16.]