

**WAC 173-424-620 Energy economy ratio-adjusted carbon intensity applications.** (1) **Energy economy ratio-adjusted CI applications.** Applications submitted under this section are modified Tier 2 pathway applications under WAC 173-424-610.

(2) **Eligibility.** The following persons are eligible to submit an application under this section:

(a) Vehicle owners or operators that would be eligible to generate credits for their vehicles;

(b) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in Washington; and

(c) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers.

(3) Applications made under this rule must be for electric vehicles capable of full normal operation using energy from onboard batteries, fuel cells, or other fuel-vehicle technologies.

(4) **Application requirements for an energy economy ratio-adjusted CI.** In addition to the application requirements for a Tier 2 pathway application under WAC 173-424-610, the applicant or applicants must include:

(a) A letter of intent to request an energy economy ratio (EER) adjusted carbon intensity and why the EER values provided in Table 4 of WAC 173-424-900 are not applicable;

(b) Supplemental information including a detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references used for the calculation of the proposed EER-adjusted CI value. The methodology used must compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;

(c) If the applicant or applicants plan to use a value in the lookup table in WAC 173-424-900 for the carbon intensity of the fuel, or an electricity fuel pathway code issued under WAC 173-424-630, to request an EER-adjusted carbon intensity then they do not need to provide the fuel facility information required under WAC 173-424-610 (3)(e) through (h) and (5).

(5) **Minimum data requirements to apply for an energy economy ratio-adjusted CI:**

(a) Any application made under this rule must include at least three months of operating data that represents typical usage for each individual vehicle type included in the application, except that the application must cover at least 300 hours of operating data for each individual vehicle type included in the application; and

(b) Notwithstanding (a) of this subsection, an application from a manufacturer may provide data from duty-cycle testing. A manufacturer seeking to apply using duty-cycle testing data must consult with ecology prior to submitting an application and receive written, advanced approval from the agency for the duration and test cycles it is including in the application in addition to or in lieu of operational data.

(6) **Application review process to apply for an energy economy ratio-adjusted CI:**

(a) Ecology will review an application for completeness, soundness of the assumptions and comparison to the conventional fuel technology, and accuracy of the data. Ecology may deny an application without prejudice if it is incomplete. Ecology may deny any application that it believes is adequately covered by an existing EER value

in Table 4 in WAC 173-424-900 or that it believes does not fit the intent and purpose of the clean fuels program;

(b) Ecology may prioritize its review of applications under this provision to those that cover a greater number of entities or that the agency believes are critical to the state's transportation electrification goals;

(c) If ecology intends to approve an application, it first must present a review report with a proposed EER value and pathway conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value, ecology will post the review report and application on its website for a 30-day public comment period. Ecology staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand and replicate the EER value that ecology is proposing to approve; and

(d) Based on comments received during the public comment period, ecology may move forward with approving the application as provided in subsection (7) of this section, deny the application, request additional information from the applicant or applicants, or modify the review report. If ecology modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(7) Based on its review of the application materials and any comments submitted upon the application under subsection (6) of this section, ecology may issue an EER-adjusted fuel pathway or issue a value that it would post on its website that could be used similarly to the EER values contained in Table 4 of WAC 173-424-900. Values issued under this rule can only be used by the applicant or applicants for that value.

**(8) Adding joint applicants after a value is approved.** If ecology has issued a value under subsection (7) of this section as part of an application that includes the manufacturer of the vehicle(s), owners or operators who begin to operate the same vehicle(s) covered in that application in Washington may request to be added as a joint applicant. In order to do so they must provide the following:

(a) A letter from the manufacturer stating that the manufacturer supports the addition of the joint applicant;

(b) Any current operational data by the new joint applicant, or other data elements required to be reported under the value's pathway conditions; and

(c) A statement by the new joint applicant that they understand and accept any and all pathway conditions associated with the value.

**(9) Ongoing reporting requirements.**

(a) For any EER-adjusted fuel pathway approved by ecology under subsection (7) of this section, the applicant for such approval must annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by ecology to generate credits or deficits in the clean fuels program. Ecology may require additional data elements that must be reported annually as part of its pathway conditions for an application that is approved under this rule.

(b) For any EER-adjusted fuel pathway approved by ecology under subsection (7) of this section, ecology may require third-party verification of the annual fuel pathway report submitted by the applicant or joint applicants for such approval in CARB or OR-DEQ. If ecology

determines that third-party verification is required, ecology will include that as a pathway condition presented to the applicant or applicants under this section as part of its approval of such fuel pathway.

(10) **Modifications to values issued under this rule.** Based on the ongoing reported data required under subsection (9) of this section or additional applications for vehicles that ecology determines to be in the same category, ecology may modify any value issued under this provision for reporting beginning with the next full calendar quarter following its notice that the agency is modifying the value. Ecology will provide notice to the applicant(s) for such fuel pathway prior to doing so, and may request comment from them and the public prior to modifying the value.

[Statutory Authority: Chapter 70A.535 RCW. WSR 22-24-004 (Order 21-04), § 173-424-620, filed 11/28/22, effective 12/29/22.]