



**RE: Comments on proposed draft rule language for Chapter 173-444 WAC regarding the Clean Energy Transformation Act rules**

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NW Energy Coalition (NVEC) submits the following comments on the Draft rules dated May 7, 2020 proposed by the Department of Ecology (Ecology). These build on comments we submitted in late January on the first draft rules. Our comments will follow the sections by order in the proposed rule; only those sections that raise questions or for which we suggest edits are addressed.

**WAC 173-40-020 Definitions**

The eleven definitions in this section added since the January 14<sup>th</sup> draft are generally helpful since the terms are referenced in the calculation methodologies. NVEC would also encourage Ecology to include in the definitions all other terms referenced in the calculations. For example, “aggregate source”, “source type” or “regulatory agency” were added, but not “biogenic CO<sub>2</sub>” (used in equation 2 on page 6) which needs a definition to differentiate that term clearly from “Biomass”; “Utility claims”, which is used in several places in the methodologies section (173-444-040); “alternate data sources” and “co-generation factor”. All terms that are used in the calculation narratives should be explained in the definition section, to prevent future confusion.

**WAC 173-444-040 Greenhouse gas content calculations**

In this section, we have two main points concerning what is reported and a few suggestions as to how the rule is actually structured. First, the calculation of emissions omits upstream losses and losses due to transmission, distribution, and other losses at the generator. This is inconsistent with the intent of the Clean Energy and Transformation Act to transition Washington’s electricity system to 100% clean energy. Second, we are concerned about the relationship between these rules and the rules established by Commerce for the fuel mix reports under WAC 194-40-060. And finally, the actual structure of the proposed rule and the calculations are somewhat repetitious, sometimes circular and confusing.

To the first point, it is contradictory to the intent of the statute, as stated at RCW 19.405.010(2), to achieve an emissions-free, renewable electrical system, and yet leave unaccounted emissions from transmission, distribution and upstream leakage from the power sold to customers. GHG content calculations should incorporate *all* the power generated to meet retail WA load. RCW 19.405.040 applies to all “retail sales of electricity”; while “retail electric sales” is not defined in CETA, as a practical matter the “retail sales” to customers incorporates the cost of transmission losses. After all, there is some cost to a utility associated with the electricity generated (or purchased) but then lost in transmission. Those costs for lost electricity are incorporated into the rates the utility charges for the electricity it sells. If the utility is charging for those losses, it’s part of the sale, and those losses must be carbon neutral and, eventually, carbon free.

Excluding these losses, would, in effect, improperly create a new exception under the definition of “retail electric load” at RCW 19.405.020(36) that is not allowed by statute. “Delivered” is not defined in CETA; however, the “amount delivered” can and should be interpreted to include the amount lost in the process of delivery. Again, to deliver any electricity at all, a utility will inevitably incur some delivery losses, so those losses must be included in any emissions calculations.

Further, the only place transmission losses are explicitly addressed in CETA is in RCW 19.405.020(9) which defines “conservation and efficiency resources” to include a reduction in electricity *consumption* that results from increased *transmission* efficiency (among other things). The statute views transmission losses as part of the electricity ultimately consumed by the retail customer, and so those losses should be included in the “amount delivered” and in “retail electric sales.” Even more importantly, RCW 19.405.040(1)(a)(i) requires utilities to pursue “conservation and efficiency resources” (including *transmission* efficiency) “to reduce or manage retail electric load.” Clearly, increases in transmission efficiency are a means to reduce “electric load” and that means transmission losses must be included in electric load in the first place.

Therefore, NWECC strongly urges Ecology to revise the rule language regarding emissions calculations throughout WAC 173-444-040 to capture emissions from, at minimum, transmission and distribution losses, and ideally, also from station service, spinning reserves and, most importantly, upstream emissions to capture the full emissions that result from the actions necessary to sell and deliver electricity to Washington customers.

Second, the latest version of the Ecology rules adds “aggregate sources”, which means either “power from the same source type from one or more power plants that cannot be traced back to specific power plants via form EIA-923” or “single or multiple source power obtained from a single Asset-Controlling Supplier” (or ACS, as defined by CARB, under California law). How is the power in the CARB calculations documented? Is this documentation accessible to Washington agencies and consumers? How will the use of “aggregate source” impact the intent

and calculations of the Fuel Mix disclosure RCW 19.29A to report to Washington customers the precise generating sources providing their electricity? The basic information on *each* fuel type must still be available to be reported separately for the fuel mix reports, not lost by combining resources for California purposes.

Lastly, the structure of 173-444 overall is confusing. Since the methodologies are ordered in preference of (2) through (4), and subsections (2)(g), (3)(f) and (4) state explicitly when each methodology should be selected, we suggest those subsections be placed (or repeated) on a single page to clearly show which electric resource should use which emissions calculation in place of the current figure 1.

Also, listed under each methodology are bulleted points followed by lettered points, that often say almost the same thing. It would simplify the rules if some of those could be combined, where possible (e.g., at the sixth bullet point under Equation 2 could read “transmission losses = estimate of transmission losses between the individual power plant and utility customers as calculated ~~by subsection (2)(d) of this section~~ using subsection (5) of this section, MWh/year”, and drop (2)(e), which says “calculate transmission losses using subsection 5 of this section”).

#### **WAC 173-444-060 Eligible Categories of Energy Transformation Projects (ETP)**

The draft rules as written omit several categories of Energy Transformation Projects that are specifically listed in the CETA, and add other items that are not listed and are inappropriate for ETP designation.

It is not clear why only some of the itemized activities specifically called out in the statutory definition of an ETP at RCW 19.405.020(18) were listed as eligible project categories at 173-444-060(8). For example, the first example under the statutory definition is electric energy efficiency:

RCW 19.405.020(18) (a)(i) *Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW [19.285.040\(1\)](#), if applicable; other state obligations; or other obligations in effect on May 7, 2019.*

However, electric energy efficiency is not listed as an eligible project category, despite extensive protocols and experience around measuring and evaluating electric energy efficiency. In addition, the definition in the same statute also specifically cited:

RCW 19.405.020(18)(a)(iii) *Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience.*

**Both of these definitional examples should be added to the initial primary list of projects.**

More concerning, there is one eligible project category proposed by Ecology that is not mentioned in the statute: (8)(e) *Natural gas energy efficiency and conservation measures*. The addition of this category is puzzling and concerning because CETA deals with the electric system, not the direct delivery gas system. ETP's will be paid for by electric utilities, presumably, if they are found to be prudent expenditures, with ratepayer dollars. Electric ratepayers should not provide funding to natural gas customers to enable them to upgrade to more efficient equipment.

Further, the definition of an ETP at RCW 19.405.020(18)(a) states (emphasis added):

*(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; **and provides benefits to the customers of an electric utility.***

Ecology's own draft rules also state at 173-444-060(4)(c):

*(4) In order for a project category to be included in this list projects that may fit that category must have the potential of meeting all of the following conditions: ...*

*(c) Providing benefits to the customers of an electric utility or electric utilities in a manner that can satisfy the equity considerations required for this chapter.*

Natural gas conservation measures do not provide benefit to the customers of an electric utility, and no electric system customer should pay for energy efficiency for natural gas customers, which is what would happen under (e). **Ecology should remove "natural gas energy efficiency and conservation measures" as an eligible project category for Energy Transformation Projects.**

#### **WAC 173-444-070 Criteria for Energy Transformation Projects and WAC 173-444-080 Procedures for Energy Transformation Projects**

The details now provided in these two sections clarify what kinds of criteria will be included in a protocol, which captures the specific requirements of the statute. An ETP should not be just any project, but one that can compensate for the carbon emissions of the small portion of power that has not yet converted from fossil fuels and must be real, specific, identifiable, quantifiable permanent, additional and verifiable, among other criteria. Each project or project category must comply with the intent of the law.

The proposed rules rightly require the projects be validated prior to implementation, monitored while functioning; and performance and outcomes verified to assure the actual benefits of the project over time. This is crucial, as the statute allows for no more than 20% of the 2030 standard to be met with ETPs, which should in actual practice move the state towards a cleaner grid.

Finally, we commented in January that it would make sense for Ecology to update WAC 173-441-040 by adopting the newer AR5 emission values for CO<sub>2</sub>e from the IPCC's Fifth Assessment Report, published in 2014, rather than continue with the outdated 2007 APCC AR4 report's Global Warming Potential value for emission rates. This could be part of the update of the emission factor for unspecified electricity, if not addressed sooner.

We appreciate the opportunity to comment.

Cordially,

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