



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

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NW Energy Coalition (NWECC) submits the following comments on the proposed rules dated September 2, 2020 filed by the Department of Ecology (Ecology). NWECC submitted comments in late January on the first draft rules and again in May on the next round of drafts. Some of those previous comments are still pertinent and are cited again; a few comments are new to this proposal. 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. For this CR-102 version, we also submit a redlined copy of the rules.

NWECC appreciates staff's efforts to further refine the rules; clearly some changes are in response to suggestions that were made by stakeholders regarding the previous version. Generally, the rules seem consistent with the statute, but we continue to have concerns with the complexity of the calculations section.

As we have commented before, the rules still do not account for the totality of emission impacts from the use of fossil fuels, which is contrary to the intent of the Clean Energy and Transformation Act (CETA). As we transition Washington's electricity system to 100% clean energy, as stated at RCW 19.405.010(2), we need to account for all the emissions, not just the emissions created when fuel is combusted.

To achieve an emissions-free, renewable electrical system, *all* GHG emissions resulting from providing electric service must be accounted for. GHG content calculations should incorporate all combustion *and non-combustion emissions*, including upstream emissions in the fuel supply chain, emissions from the generation of fossil fueled electricity, including station service, spinning reserves, and the effect of transmission and distribution losses.

This more comprehensive approach to ghg emissions calculations is described by Commerce in the 2nd draft rules at 194-40-110(1)(b) which applies the Social cost of Greenhouse Gas emissions *"to all emission resulting from the generation of electricity using fossil fuels including*

extraction, production, transmission and combustion.” This acknowledges that all phases of the use of fossil fuels creates emissions, which should be the standard in Ecology’s approach as well.

For example, accounting for all emissions could make the cogeneration adjustment used in Equation 2 unnecessary, as well as change section (5) regarding the proposed calculation of transmission losses. Currently, section (5) addresses only one component of non-combustion emissions, transmission and it is not clear if that term includes distribution losses. The equation needs to account for other non-combustion emissions. Additionally, the 5% factor at (5)(b)(iii)(A) would need to be adjusted to reflect that change. In any case, the source of the base data for the factor, whatever its final value, needs to be cited in a footnote. While we suggest some language in the redline to reflect our concerns, (5) should be redrafted from (b) on to make clear that all emissions need to be included in the calculations.

We commented in January that, rather than simply continuing with the outdated 2007 APCC AR4 report’s Global Warming Potential value for emission rates, it would make sense for Ecology to update WAC 173-441-040 by adopting at least the newer AR5 emission values for CO₂e from the IPCC’s Fifth Assessment Report, published in 2014. Since the IPCC’s Sixth Assessment is due in April of 2021, we suggest Ecology consider adopting the most recent standard when it acts; the lag time on adoption of the emission values is troubling.

WAC 173-444-020 - Definitions

There are a few definitions we strongly urge be added to the definitions section:

“Asset Controlling Supplier”: California is the only state that has created such a designation and this term needs to be clearly defined, rather than simply referenced in the definition of “aggregate source”. For example, *“Asset Controlling Supplier” means a utility that is so designated by the California Air Resources Board because the utility sells energy from more than one source into California and for which electricity resource mix the CARB establishes a single emissions rate.*”

“Approved Alternative Data Source”: This term is found in all the equations. It is not clear if an alternative data source is limited to CARB and its emission determinations for Asset Controlling Suppliers or if the term is broader and is intended to allow other “data sources” of emissions to be used in the equations as well.

“Greenhouse gas emission content”: means a calculation expressed in carbon dioxide equivalents made by the department of ecology for the purposes of determining the complete greenhouse gas lifecycle emissions in electricity attributable to a fuel, including emissions resulting from the extraction, production, transport and complete combustion or oxidation of fossil fuels.

“Plant net output basis”: This term is used only once in the rules at WAC 173-444-040(5)(b)(ii)(A). It needs to be distinguished from both “sales basis”, which is used once the same section, and from “plant net electric generation” (as used on pages 6, 7 and 9).

“Utility Claims”: It is not clear how this term differs from “plant net electric generation” or from “total claims” in (5)(b)(i) (total claims is only used once in the rules and it is not clear to what amount of electricity it refers). Is this term meant to include partial output of a known generator (for example, a utility purchases just half of the output of a specified natural gas generator)? If “utility claims” it is meant to capture MWhs of specified purchases from generators that are not owned by the utility, that should be part of the definition.

WAC 173-444-060 – Eligible categories of energy transformation projects

We appreciate Ecology’s edits and restructuring of this section which have, overall, improved the section, more closely aligned the rule with statute and made process and expectations clearer. We suggest an edit to (7)(d) to also include energy efficiency projects in excess of any other state obligations as described at RCW 19.405.020(18)(b)(i).

WAC 173-444-080 - Procedures for energy transformation projects.

It is not clear why the 30-day comment period for provisional “validated” projects was dropped since the last draft. Instead of eliminating the opportunity for the public to comment on proposed energy transformation projects when Ecology provides an advisory validation opinion for a project, it would be better to require public comment for *any* proposed project, including those validated by third parties.

We strongly urge that the processes and procedures that will be established in the Ecology guidance document for third party verification at (9)(c) include a public review opportunity and that the 30-day public comment that was previously required at (10)(g) be reinstated. We have so indicated in our redlined rules.

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.

We appreciate your consideration of our comments and of the suggested redlines.

Cordially,

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