



Northwest Pulp & Paper ASSOCIATION

January 26, 2022

Cooper Garbe
Rulemaking Lead
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: NWPPA comments on WAC 173-446 Climate Commitment Act Program

Dear Mr. Garbe:

Thank you for the opportunity for the Northwest Pulp & Paper Association (NWPPA) to provide comments on the Department of Ecology's Climate Commitment Act Program rulemaking, Ch. 173-446, WAC, as referenced above.

NWPPA is a 65-year-old regional trade association representing 10 member companies and 14 pulp and paper mills and various forest product manufacturing facilities in Washington, Oregon and Idaho. Our members are at the forefront of Washington GHG reduction and air quality improvement efforts. NWPPA members have embraced technically advanced and scientifically sound controls on air emissions over the past 20 plus years. We are committed to the hard work, expense, and discipline it takes to be good partners in our respective communities.

As you may recall, NWPPA submitted initial comments dated January 20, on the inclusion of black pulping liquor in the preliminary draft. The definition of "biomass" in WAC 173-441 is broad and certainly includes kraft pulp mill black liquor. Black liquor is a by-product of wood pulping which is subsequently combusted in a recovery furnace for its fuel value and chemical recovery. Emission of carbon dioxide results from black liquor combustion. RCW 70A.65.080(7) is very clear in stating that carbon dioxide emissions from the combustion of biomass or biofuels are exempt from coverage in the Climate Commitment Act.

Further review of the preliminary rule language in the version dated January 4 has resulted in additional concerns that we would like to address by section:

WAC 173-446-020: Definitions

(ff) **Curtailed facility** – This term and its use in the rule should be broad enough to recognize that a portion of a facility, perhaps a process unit or production line, might be curtailed while other production equipment operates. As an example, some pulp and paper mills operate multiple wood pulping processes and multiple paper machines to produce a range of final products.



Northwest Pulp & Paper ASSOCIATION

Market conditions, capital equipment upgrades, maintenance activities, etc., could result in partial curtailment of some portion of the facility production for some period of time.

(ii) **Direct environmental benefits in the State** – The initial focus in this definition on the “reduction or avoidance of emissions of any air pollutant...” makes sense. However, the extension of the definition to build a connection to “adverse impact on waters of the state” is a tangential consideration. Please consider removing the aforementioned reference to waters of the state to better align with the fundamental objective of the CCA; i.e., reduction in GHG emissions. In support we would note that the “Direct environmental benefits” phrase is not defined in the CCA nor proposed WAC 173-446.

WAC 173-446-220(1)(a)(ii) and WAC 173-446-220(1)(b)(iii)(A) – Allocation Baseline for EITE

These subsections direct use of the production data described in proposed WAC 173-441-050(3)(n) in computing the emission intensity factor. The production metric of Pulp, Paper and Paperboard (NAICS 3221XX) is “Air Dried Metric Tons of Pulp Produced.” This unit is not commonly derived or relied on in the industry and would require some facility-specific assumptions and back-calculations to determine. Most important is that this metric may overlook some fiber sources that contribute to facility production totals. Most notable would be the recycling of various paper grades or corrugated that are then re-pulped and become furnish for new production. Mills may have various reporting conventions under 40 CFR 98, Subpart AA. Ecology should be aware that mills may provide an explanation per WAC 173-441-050(3)(f) to fully account for pulp, production and emissions, and that these values may differ from historic reporting.

WAC 173-446-220(1)(b)(ii) and (iii) – Allocation Baseline for EITEs

This section assigns the calculation of a carbon intensity or mass-based baseline to Ecology. However, RCW 70A.65.110(3)(c) directs that the EITE Facility will submit its carbon intensity baseline to the agency for review and approval. This statutory direction should be reflected in the formal draft rule. Here are several other comments relevant to the computation of a carbon intensity baseline:

The CCA does not offer literal instruction for Ecology to assume the 2015-2019 mass and production information should be averaged to compute the carbon intensity, but rather refers to reliance on emission and production information from “2015 through 2019.” Pulp and paper mills will have varying annual production levels for some of the reasons listed previously. Both the statute and this preliminary regulation allow for consideration of “alternate years” or “abnormal periods of operation” and the agency should expect the facility presentation of a carbon intensity value may select the most favorable single year combination.

Is “production” synonymous with the term “product data” (in proposed WAC 173-441)?



Northwest Pulp & Paper ASSOCIATION

While the CCA seems to favor the derivation of a “carbon intensity” factor (which times “production” will give a GHG ton/year mass value), the statute also gives the option for a straight “mass-based baseline” value. Consistent with -220(1)(a)(vi), a Facility may present a mass-based baseline value.

WAC 173-446-220(2)

The application of the “True-Up” concept is a bit murky. More specifically, our questions are:

1. Does Ecology intend for the Carbon Intensity to be derived each year, or once per Compliance Period?
2. If Carbon Intensity is computed once for a given Compliance Period, then does that value multiplied by the prior year production (or product data) yield the No Cost Allocations for the coming year?
3. If the production (or product data) for the current year turns out to be greater or lesser than the prior year data used to compute allocations, does this initiate the True Up process?

A case study demonstrating this process would be useful.

WAC 173-446-220(2)(d)

This is an important subsection and deserves a more prominent section header. We propose

“WAC 173-446-220(3) Process to gain adjustment to no cost allowances calculated for an EITE facility”.

Additionally, this subsection states that Ecology “may” make an upward adjustment in no-cost allowances if an EITE facility demonstrates certain GHG emission altering changes attributable to manufacturing process changes or abnormal operating periods, or external market conditions which increase the risk of leakage. The CCA at RCW 70A.65.110(3)(f) instructs that Ecology “shall” make allocation adjustments if any of these “significant changes” are demonstrated.

Lastly, establishment of criteria for determining the merit of facility demonstration that additional reductions in carbon intensity or mass emissions are not technically or economically feasible, draws heavily on the descriptive criteria in the Best Available Technology definition. Would Ecology agree with that or are there unspoken nuances that might need to be clarified?

WAC 173-446-400: Compliance Instrument Transactions

Subsection (2) directs that Compliance Instruments will be “surrendered” at the end of each Compliance Period; i.e., the total for the four-year period. As presented in an earlier question, will the No Cost Allowances be computed on an annual basis using an annually-derived Carbon Intensity



Northwest Pulp & Paper ASSOCIATION

and the prior year Production, and then totaled for the Compliance Period? Or will the Compliance Period emission totals be based on a four-year average Carbon Intensity and each year production? Or some other formulation?

WAC 173-446-500 to -595: Offsets

This section contains 60+ pages of proposed rule language that introduces sophisticated and complex regulatory concepts in excruciating detail. This level of detail and complexity compromises the ability to understand and confidently implement this section of the rule, thus significantly limiting rule accessibility for all but the highly informed subject-matter experts. This is not effective regulation. The "Offsets" section should be distilled down to a more concise and manageable portion of the rule text.

We have also reviewed comments from other EITE facilities that have or will be submitting direct comments through other trade organizations, or directly as facility operators. We support the whole of the EITE community, as well as the questions, comments, and concerns submitted by the other EITE representatives.

Thank you again for the opportunity to provide comments on the preliminary draft of this important rulemaking. Please let us know if you have any questions.

Sincerely,

Jackie White
Director of Regulatory and Technical Affairs
Northwest Pulp & Paper Association