

July 15, 2022

Comments on proposed Chapter 173-446 WAC.

The Washington Policy Center submits the following comments about the Preliminary Regulatory Analysis (Analysis) for the Climate Commitment Act. That analysis is flawed and some of the conclusions are contradicted by the very sources cited by the authors of the Analysis. The errors are significant and require revisions that have a meaningful impact on the accuracy of the report.

As such, the Analysis does meet the requirement in RCW 34.05.328(1)(d) that “the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.”

Additionally, the errors also violate RCW 34.05.328(2) that “the agency must place in the rule-making file documentation of sufficient quantity and quality” to show the rule is justified.<sup>1</sup> By relying on studies that contradict the conclusions and calculations of the Preliminary Regulatory Analysis, it is not of the quality necessary to make an accurate assessment.

Before addressing those issues, on page 22 there is a typo in Table 10, which is labeled “Impacts to output, SCC amenity value, billions of \$.” The caption should read “Impacts to employment, SCC amenity value, billions of \$.”

### **Choice of Discount Rate**

The benefit values in the Analysis are driven primarily by the choice of the Social Cost of Carbon (SCC). It appears that the report’s values for the Social Cost of Carbon may be inaccurate. For example, the Analysis lists the Median SCC at 3% Discount Rate for 2021 (2022\$) as \$56.93. The Technical Support Document from the U.S. Interagency Workgroup on Social Cost of Greenhouse Gases cited by the Analysis, indicates the 2020 value (in 2020\$) to be \$51. To jump from \$51 to \$56.93 in one year, implies an inflation rate of over 10 percent when combining inflation plus the adjustment for 2020 to 2022 dollars. This is very unlikely and indicates the SCC numbers used in the Analysis are too high. By 2050 the gap between the U.S. SCC grows to \$8 per MT – a difference of nearly 10 percent. The aggregate impact of these differences is significant and may lead to inaccurate estimates of the total benefits.

At the very least the Analysis should explain the difference between the numbers they provide on page 108 and the Federal SCC as shown in Table ES-1 of the Technical Support Document.

Additionally, the SCC numbers used in the Analysis apply a low discount rate of 2.5%. On page 124, the Analysis says, “To maintain consistent discount rates across this analysis, we assumed the nearest available SCC discount rate (2.5 percent) as the discount rate for all present value calculations.” This narrow focus on only one discount rate is at odds with standard practice.

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<sup>1</sup> RCW 34.050.328, <https://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328>

As the Analysis notes on page 108, the U.S. Social Cost of Carbon includes four discount rates – 5 percent, 3 percent, 2.5 percent, and 3 percent for low-probability impacts.<sup>2</sup> Standard practice is to provide a range of potential discount rates. The Analysis should do the same.

The Analysis rejects using a range of discount rates, citing a 2016 Minnesota administrative law judge who called the use of the federal SCC “reasonable and the best available measure to determine the environmental cost of CO<sub>2</sub>.” There are two major problems with using this ruling.

First, the Analysis cuts off the end of the sentence. The ruling determines “Whether the Federal Social Cost of Carbon is reasonable and the best available measure to determine the environmental cost of CO<sub>2</sub> under Minn. Stat. § 216B.2422 and, if not, what measure is better supported by the evidence;”<sup>3</sup> (emphasis added). The decision was not whether the SCC was reasonable and the best available measure, but whether it met the requirements of Minnesota Statute § 216B.2422. The authors of the Analysis do not explain how compliance with that Minnesota statute means the Federal SCC with a 2.5% discount rate is “reasonable” to comply with Washington state law. The fact that the authors redacted a key phrase indicates they understand the meaning of the phrase is different than they are implying.

Second, the ruling directly contradicts the decision made in the Analysis. The ruling of the judge reads, “The Administrative Law Judge respectfully recommends that the Commission adopt the Federal Social Cost of Carbon as reasonable and the best available measure to determine the environmental cost of CO<sub>2</sub>, establishing a range of values including the 2.5 percent, 3.0 percent, and 5 percent discount rates...” The judge then goes on to remove the scenario with the highest SCC calculations, ordering the Minnesota Utilities Commission to “exclude the value derived from the 95th percentile at a 3 percent discount rate value from the range of values.” Rather than using one particular discount rate, the judge orders all discount rates be assessed.

The fact that one of the main sources cited to justify using one particular discount rate directly contradicts that choice indicates the analysis does not meet the requirement that the report be of sufficient quality. Indeed, it demonstrates that the report is inaccurate because the authors have not accurately conveyed or understood the conclusions of the sources they are using.

The authors of the Analysis point to another source arguing for a “maximum discount rate of 2 percent.” The authors of the Analysis cite a November 2021 study by Carelton and Greenstone who argue that discount rates should be lower based on a downward trend of 10-year Treasury Security Interest Rates. Since that report was published, rates have more than doubled, exceeding 3 percent several times, and climbing as high as 3.48%.<sup>4</sup> By the logic of that study, updated rates indicate a 3 percent discount rate is more appropriate.

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<sup>2</sup> Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, “ Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990,” February 2021, [https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument\\_SocialCostofCarbonMethaneNitrousOxide.pdf](https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf)

<sup>3</sup> STATE OF MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS, “ In the Matter of the Further Investigation into Environmental and Socioeconomic Costs Under Minnesota Statutes Section 216B.2422, Subdivision 3,” April 15, 2016 [https://mn.gov/oah/assets/2500-31888-environmental-socioeconomic-costs-carbon-report\\_tcm19-222628.pdf](https://mn.gov/oah/assets/2500-31888-environmental-socioeconomic-costs-carbon-report_tcm19-222628.pdf)

<sup>4</sup> <https://www.cnbc.com/quotes/US10Y>

To deviate from the standard practice of using 3 percent, the report's authors must provide a strong case that the current approach used by the U.S. government, and Ecology's own source from the Minnesota case, is incorrect. On the contrary, the conclusions from Carleton and Greenstone are uncertain at best using the latest information and the metric they use – the 10-year Treasury yield – confirms the use of 3 percent at the mid-point of analysis.

Finally, the last study cited by the authors of the Analysis – van den Bergh and Botzen – is badly out of date, relying on old IPCC data and information. Additionally, the purpose of that study is not to assess likely and reasonable impacts, but to use a "precautionary approach" to find a boundary. The assessment is intentionally designed to produce an outlying estimate. This is not consistent with the requirements of the RCW that the analysis be persuasive to a "reasonable person."

As a result, the Analysis relies on sources that directly contradict their conclusion or are out of date and contradicted by updated information.

These are not small errors. Using the approach suggested by the sources cited by the Analysis would dramatically change the benefit calculation. The Analysis indicates that using an SCC with a 2.5% discount rate yields an "avoided social cost of carbon" by 2050 of \$17.27 billion. Using the 3% discount rate that is standard practice and is suggested by current Treasury 10-year yields, would cut that amount by about 30%, reducing the potential benefit to about \$11-\$12 billion. This would potentially put the benefit calculation below the costs in both scenarios.

Using a 5% discount rate, as recommended by the Minnesota judge cited by the authors of the Analysis, would reduce the avoided social cost of carbon to between \$4-\$5 billion and would reduce benefits far below costs.

The Analysis must be reanalyzed using the appropriate discount rates suggested by their own sources, consistent with standard practice of calculating values from the Federal Social Cost of Carbon.

### **Scope of Benefit Calculation**

The Analysis should also provide a calculation of costs and benefits for Washington state, as is consistent with standard practice for the Department of Ecology.

Currently, the authors of the Analysis include benefits from the entire globe. As the Analysis notes on page 109, "For typical costs and benefits, Ecology uses Washington State-only values, but GHG emissions are unique, and require a broader approach to valuation, especially as it applies to the co-externality impacts of carbon emissions. Ecology believes the use of a global SCC is the appropriate carbon cost to use in analyses, because of the unique nature of carbon and climate change." There is justification for looking at global benefits. Since the costs of emitting CO<sub>2</sub> are borne by people across the globe, it is appropriate to also calculate the benefits of reducing CO<sub>2</sub> emissions on that same population.

While it is appropriate to consider global benefits, that does not justify failing to provide a comparison of costs and benefits for Washington state. The only argument made by the authors of the Analysis for deviating from standard practice is that "Washington's economy is tied to the world economy through trade, international supply chains, and local employment by international firms" (page 114). This is true, but it only justifies *adding* a global analysis, not eliminating a local analysis.

Additionally, arguing that global connections require an assessment of global benefits would also apply to assessing global costs. What happens in Washington doesn't stay in Washington, and that has impacts on both benefits and costs. If the Ecology authors are going to use a global scope, they can't do only half the calculation, considering benefits of reducing CO2 but not the costs of doing so.

While the authors of the Analysis don't provide a separate comparison of costs and benefits for Washington state, they spend many pages highlighting impacts in Washington state they assert are caused by climate change. The clear insinuation is that the Climate Commitment Act (CCA) will reduce these impacts, but the authors of the Analysis refuse to provide estimates of those reductions. The authors admit on page 117, "we do not know the extent to which these environmental and human costs would be avoided under the proposed rule, we discuss them qualitatively with numeric information where possible to further illustrate them." The authors try to have their cake and eat it too. They include current damages purportedly associated with climate change for dramatic effect without making an attempt to determine if the CCA would reduce those damages.

For example, on page 17, the Analysis notes, "Based on a national average of comprehensive wildfire impacts, wildfires cost Washingtonians at least \$1.6 to \$8 billion each year." First, there is no effort to indicate that these damages are climate-related. On the contrary, a study by researchers from the U.S. Forest Service and the University of Montana indicates that climate change played a very small role – less than 14% – in the recent increase in catastrophic wildland fire.<sup>5</sup> The insinuation that the costs of firefighting are due to climate change is unsubstantiated and inaccurate.

The same is true with damage estimates in other categories, including agriculture, shellfish harvests, and environmental justice. Additionally, the Department of Ecology authors cannot quantify the impacts of climate change in Washington state. The Analysis should remove all references to damages unless they can be directly tied to atmospheric CO2 levels associated with past and future emissions from Washington state.

The Analysis also fails to include an estimate of benefits from the CCA to address the impacts cited by the authors. The authors admit on page 117, "we do not know the extent to which these environmental and human costs would be avoided under the proposed rule..."

The same is true for "environmental justice." The authors write, "As we do not know the extent to which reduced climate change impacts would specifically benefit these communities..." they will only cite aggregate impacts without attempting to calculate benefits from the policy. Further, the impacts on environmental justice include many factors that have nothing to do with climate change.

The same approach is used with heat-related deaths and air pollutants.

The Department of Ecology is required to make an assessment of the costs and benefits. Simply saying "we do not know," is not acceptable. It is particularly inappropriate to include theoretical harm while refusing to make any attempt to determine if the policy addresses them. This violates both the spirit and requirement to compare the costs and benefits of a policy.

The Analysis should:

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<sup>5</sup> Sean A Parks et al 2018, "High-severity fire: evaluating its key drivers and mapping its probability across western US forests," Environ. Res. Lett. 13 044037, <https://iopscience.iop.org/article/10.1088/1748-9326/aab791>

- Remove all costs estimates from harms not specifically associated with CO2 levels due to Washington emissions (for example, the sections on “Wildfires” and “Heat impacts” on pages 131-134, and similar sections elsewhere)
- Include an estimate of SCC benefits that focuses on Washington state only
- Include a global estimate of costs associated with the CCA on the global economy due to impacts on trade that is consistent with the inclusion of global benefits of the CCA.

## Offsets

Whatever the correct value of the SCC, the analysis demonstrates that offsets are the least burdensome way to achieve CO2 reduction. As the analysis shows, both scenarios on page 16 – with and without offsets – achieve the same level of benefit from reducing CO2. However, the scenario with maximum use of CO2 offsets, even at the extremely limited level allowed in the CCA, reduces total costs of compliance by \$450 million.

RCW 34.05.328(e) requires that “the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives.” By reducing the cost to meet the state’s CO2 cap, increased use of offsets would reduce the burden of meeting several of the objectives, including:

- “Creating climate policy that minimizes leakage by recognizing the special nature of emissions-intensive, trade-exposed industries and increased life-cycle emissions associated with product imports.”
- “Encouraging energy-intensive and trade-exposed industries to continue to innovate, find new ways to be more energy efficient, use lower carbon products...”
- “Preventing job loss”
- “Establishing this program in a manner that contributes to a healthy environment for all of Washington’s communities.”

Using the existing analysis, the Analysis should make clear that increased use of offsets would reduce the burden of meeting these, and other, goals of the CCA.

If you have additional questions, please contact me at [tmyers@washingtonpolicy.org](mailto:tmyers@washingtonpolicy.org).

Thank you for the opportunity to comment.

Sincerely,



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