



Robert Poole
Director, NW Regulatory Affairs

February 23, 2021

Sent by Electronic Mail to: diane.butorac@ecy.wa.gov

Diane Butorac
Washington Dept of Ecology
P.O. Box 47600
Olympia, WA 98504-4700

Subject: Greenhouse Gas Assessment Process (GAP) Regulation

Dear Ms. Butorac:

Western States Petroleum Association (WSPA) appreciates the continued opportunity to provide input on Ecology's Greenhouse Gas Assessment Process (GAP) regulation development activity. WSPA is a trade association that proudly represents companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in Washington and four other western states.

At the conclusion of Ecology's November GAP regulation webinar, the agency signaled its intention to share a draft rule for informal review by early 2021. Following through on this plan will provide mutual benefit. Stakeholders tracking the GAP rule process will gain early understanding on Ecology's policy direction and rule implementation mechanisms, and the agency will inevitably receive prompt good/bad feedback. WSPA recommends that the agency might structure alternative approaches in preliminary rule language and request a response as to which approach would better address the rule objectives.

Governor Inslee's instruction in Directive 19-18 to target "major fossil fuel projects" in any GAP rule has understandably focused WSPA member attention. This organization has closely followed Ecology's rule development process over the last year and participated where opportunities have been provided. These interactions have served to distill WSPA thinking about needed features or principles that should bound any final GAP regulation. We suggest a "successful" GAP rule will embody the qualities presented below.

The GAP/SEPA evaluation criteria must be defined, limited and relevant.

- If GAP is authorized by SEPA law (Chapter 43.21C RCW), then decision criteria should conform to traditional use of the SEPA regulation concept and terms, e.g., significance, mitigation, etc.
- “Analysis-paralysis” must be avoided. An overly burdensome rule loaded with complex assessment demands serves no objective if it cannot be commonly understood and implemented.
- Seek to honor the institutional knowledge and experience project permittees and lead agencies have with the traditional SEPA process.
- Broad flexibility in determining/approving any required GHG mitigation should be allowed.

The GAP applicability threshold should intentionally capture only large GHG emitting projects.

- Ecology must balance the SEPA information collection and analysis effort/cost against the GHG emission increase which might be avoided. This is a consideration important to both the project proponent and lead agency.
- The suggestion of 10,000 MT/year direct net emissions as a GAP trigger threshold is simply too low. Any consideration of upstream/downstream or life-cycle emissions adds great complexity and exacerbates the concern with an arbitrary low threshold level. See the attached presentation that puts this threshold in perspective and demonstrates the insignificance.
- GHG emission increases are already regulated by multiple Clean Air Act and SEPA requirements. Establish an applicability threshold which intentionally avoids duplicating pre-existing GHG control regulations. Considering exemption of additional SEPA/GAP requirements if other GHG regulations (local, state or federal) already provide for analysis and mitigation/control.
- Consider designing tiered analysis and mitigation requirements.

The design and requirements in the GAP rule must support a confident SEPA decision and permitting outcome.

- The rule must use unambiguous language. The administrative process must be concisely defined. The essential information requirements to present and evaluate a project proposal needs to be specified. The lead agency evaluation and then decision criteria must be detailed and clear. A process timeline should be embedded in the rule.
- The project applicant and lead agency should be able to implement the rule efficiently and with confidence.
- An administrative record demonstrating completion of GAP regulation requirements should lead to a legally sufficient and defensible SEPA decision.

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Thank you for considering these principles in your rule drafting. We look forward to a review opportunity of a preliminary draft regulation.

Sincerely,



Enclosure: WA GHG GAP Rule Threshold Examples

cc: Fran Sant
Gap Rule Lead
WA Dept. of Ecology

Tiffany K. Roberts
Vice President, Regulatory Affairs
Western States Petroleum Association

Jessica Spiegel
Director, NW Region
Western States Petroleum Association

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Attachment

Small production changes and new combustion equipment that can trigger the proposed GAP rule's requirements.

The table below shows small production increases a refinery could make that would result in an increase of 10,000 tonnes CO₂e through the use of a listed fuel. A project to make these small production increases can be done without requiring an increase in crude capacity or a change in the crude slate used at refinery. To accomplish a project that would increase the production of one fuel would result in a decrease in the production of another fuel or product by the refinery.

A project to produce one of these small production changes may include the replacement or installation of a new process heater or boiler. Our analysis, like Ecology's analysis, shows that a small natural gas fired boiler of 21.5 MMBtu/hr. or larger would trigger the GAP rule's requirements. While this is a moderate to large size boiler for many commercial and industrial sources, this is a small unit for a refinery.

Table 1. Fuel production changes that would result in 10,000 tonnes/year of CO₂e emissions.

Fuel	Size	Units of Production increase
Gasoline	74	Barrels per day
#2 oil	64	Barrels per day
Jet fuel	67	Barrels per day
LPG	114	Barrels per day
Petroleum coke	3237 (8.8)	Short ton per year (short ton per day)