

Friday, July 16, 2021

Stu Clark
Special Assistant to the Director
Department of Ecology
State of Washington
PO Box 47600
Olympia, WA 98504-7600

RE: Greenhouse Gas Assessment for Projects Rule Development

Mr. Clark:

On behalf of the undersigned, we are reaching out regarding the Department of Ecology's (ECY) ongoing efforts to establish a rule for Greenhouse Gas Assessment for Projects (GAP) as directed by Governor Inslee in Directive 19-18.

We recognize ECY has performed a lot of work to date, and value the certainty a GAP rule may provide for future projects in the state. However, at this time we are asking Ecology to work with the Governor's office and synchronize the timing of the GAP rule, to allow for other rule processes to be completed and inform the future need or application of any GAP rule. Now that the legislature has acted to approve substantial climate legislation, we believe this will create ultimately a better product.

Through previous communications with some in this group, we have expressed concerns with the current process and overlay the GAP rule will have with legislatively directed rulemaking processes ECY must undertake at this time. Our concerns include:

- Limited resources – both within ECY and with those effected stakeholders – will limit the ability to provide timely participation and feedback. As part of the 2021 Legislative Session, the Legislature directed ECY to develop rules for the Climate Commitment Act, Low Carbon Fuel Standards, Zero-emission vehicles, as well as the participation of Ecology in rulemaking related to environmental justice and more. The ability to staff these separate rule efforts for Ecology will be daunting, but often the same subject matter experts from facilities or industries will need to cover each of these rule process. This will limit the ability to meaningfully participate.
- Overlay with other rules - as Ecology develops the different legislatively mandated rules, it will be important to understand how each rule may impact the scope and need for the GAP rule. Each of these rules will have potential impacts to life cycles of emissions,

require mitigation or offsets, and may simply put a price on emissions – even those associated with a project. Simultaneously developing each rule may lead to greater regulatory confusion and duplication of processes and costs.

As ECY looks to the future, and how best to tackle the various requirements associated with the different rulemaking processes before them, we would encourage you to contemplate whether the GAP rule is timely compared to the other obligations of the Department and needs of the regulated industry.

On March 3, 2021, Governor Inslee issued a revised Directive (19.18.1) which extended the agency's deadline for adoption of a GAP rule. Given the outcomes of the 2021 Legislative Session, it would be prudent to similarly extend the rule to ensure proper use of resources and outcomes relying on the full regulatory landscape thus created.

Establishing a rulemaking schedule that properly considers resource availability and overlap of regulation will be helpful in increasing the engagement across all the rulemaking activities, and may help to avoid less constructive processes of engagement as well. While we are hopeful that our concerns will be considered and responded to as part of this rulemaking effort, we are still contemplating all the options available to achieve this objective. In full disclosure and if necessary, we are looking at the rulemaking petition process pursuant to RCW 34.05.330 as a formal mechanism to ensure our concerns are addressed.

Sincerely,

Greg Pallesen
President
Association of Western Pulp and Paper Workers
Union

Gary Chandler
Vice President of Gov't Affairs
Association of Washington Business

Mike Brown
Assistant Business Manager, Spokane
IBEW Local 77

John Rothlin
Manager of Washington Gov't Relations
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Dan Kirschner
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Janet Kelly
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