



March 30, 2021

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Submitted electronically to [gap-rule@ecy.wa.gov](mailto:gap-rule@ecy.wa.gov)

RE: Greenhouse Gas Assessment for Projects (GAP rule) WAC 173-445

Dear Fran Sant and Department of Ecology,

Thank you for the opportunity to comment on the proposed new greenhouse gas rulemaking effort. On behalf of Columbia Riverkeeper, I am writing to encourage the Department of Ecology to refine the new rules to provide Ecology with a clear basis for protecting Washington's frontline communities—which are most often low-income and minority communities—who feel the impacts of climate-changing pollution most acutely. As currently drafted, the rule creates a loophole for fossil fuel pollution to continue to undermine the health, safety, and livability of these communities. Specifically, we urge Ecology to refine the applicability portion of the GAP rule to address distribution pipelines and projects that were approved based on SEPA analyses that may now be stale or inaccurate.

Fossil fuel infrastructure is a significant source of greenhouse gas emissions that cannot be ignored. Governor Inslee said as much in his March 3, 2021, Directive to Ecology:

Future risks of climate change depend on decisions made today. As scientific understanding of the pace, scale, and drivers of climate change improves, governmental decision-making must adapt to new information. In the case of long-lived infrastructure and industrial projects, siting decisions must be informed by a comprehensive understanding of a project's statewide and global impact, including its impact on climate

change. It is essential that the assessments of environmental and climate impacts for such projects be based on the most current climate change science available.<sup>1</sup>

The lived experience of Washingtonians in the past several years supports Governor Inslee’s call for careful and inclusive reviews: our circumstances are changing quickly. Wildfires, storms, and floods during the past several years caused dramatic changes across Washington landscapes, and fresh SEPA analyses may be necessary to evaluate how communities can remain resilient in the face of dramatic climate change. Further, we have become increasingly aware of the dangerous interplay between fossil fuel and other energy infrastructure and natural disasters. The new GAP rule should include all pipeline projects—including distribution pipelines—that have a significant climate and environmental impact.

Ecology’s rulemaking effort comes at a critical juncture, and we offer the following initial comments on the draft materials provided thus far:

First, please clarify the intent and impact of exempting projects that have already completed a SEPA environmental review. Specifically, please address whether the GAP rule would apply to a facility that has completed some outdated or non-comprehensive form of previous SEPA review but now requires supplemental SEPA analysis. The breadth of applicability of the GAP rule will test whether Ecology can reach and regulate key polluting industries in Washington in a manner that provides an equitable basis for steering Washington away from greenhouse gas emissions and the co-pollutants that go with those emissions. We ask Ecology to clarify the purpose and impact of exempting all facilities that have already completed “a SEPA environmental review.”<sup>2</sup> By saying that a project has completed “a SEPA environmental review,” Ecology may be leaving an unnecessary loophole in the GAP rule. For example, a project with a very stale, years old, SEPA review may argue that it has completed “a” SEPA review, although it may, in fact, have to undergo a further review in order to begin construction because the SEPA analysis has become stale and potentially unrepresentative of current conditions. Indeed, given the dramatic climate change-related disasters experienced by Washingtonians in recent years, Ecology should narrow the exemption in the GAP rule to projects that have fully and recently completed a SEPA review that directly addressed the impact those projects would have on Washington’s greenhouse gas emission levels, climate goals, and the frontline communities who would be hardest hit by the pollution they generate.

Additionally, Ecology should clarify the purpose and impact of exempting facilities that are currently exempt from SEPA under WAC 197-11-800. Ecology should rethink the sweeping nature of the exemptions allowed under this administrative code, and address whether exemptions of distribution pipelines for fracked gas and other fossil fuels are in the best interest

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<sup>1</sup> Directive of the Governor. 19-18.1. March 3, 2021.

[https://www.governor.wa.gov/sites/default/files/directive/dir\\_19-18.1.pdf](https://www.governor.wa.gov/sites/default/files/directive/dir_19-18.1.pdf)

<sup>2</sup> Draft GAP Rule Framework. March 2021. P. 16.

of achieving a clear roadmap for achieving the goals of the GAP rule as set forth in the GAP Rule Framework. For example, the Framework states,

Large fossil fuel and industrial projects have the potential to emit high amounts of GHGs, which result in adverse environmental impacts. The GAP rule will provide methods to assess GHG emissions from these projects and require a plan to eliminate, reduce, or offset the environmental impacts. It will require the analysis use the most current climate science and provides flexibility for the rapidly changing energy picture in Washington and worldwide.<sup>3</sup>

The threshold for “large fossil fuel and industrial projects” may incorporate and rely on projects that qualify as distribution pipelines under Washington state law. Washington defines a distribution pipeline to be any pipeline that is neither a gathering pipeline (which may exist at underground gas storage or other smaller sites around the state) or transmission pipelines (such as the Williams Northwest pipeline or TC Energy Gas Transmission Pipeline). EFSEC does not review pipelines that are less than 14 inches in diameter for fracked gas projects, 6 inches in diameter for liquid petroleum pipelines, and 15 miles or less for either one. However, projects on the scale of a 13-inch, high-pressure, fracked gas pipeline can contribute significantly to Washington’s climate changing pollution impact, and they should not be exempted from the new GAP rule. For example, the once-planned, now-suspended anhydrous ammonia manufacturing proposal in Longview relied on a new pipeline segment that fell beneath the threshold of a transmission pipeline, but it would nonetheless have contributed to a significant new source of climate-changing pollution. Ecology should narrow the proposed exception for the utility-related projects (Section 23 of WAC 197-11-800) to much smaller diameter pipelines, or not exempt any form of fracked gas infrastructure on a utility scale, at all.

Specifically, we request that Ecology clarify what would be the largest gas or oil pipeline, both in terms of size and length, that would be eligible for an exemption from the GAP rule under Ecology’s understanding of Section 23 of WAC 197-11-800. If Ecology intends to “eliminate, reduce, or offset” the impacts of greenhouse gas pollution from fracked gas infrastructure, it should expand the range of potential pipelines and other utility activities for which the GAP rule will be applicable. Without changing this language in the rule, Washington risks creating a large loophole in the GAP rule. This loophole could unwittingly facilitate major expansions of power plants, export terminals, and fracked gas-based industrial facilities.

In conclusion, we thank you for your effort to strengthen Washington’s SEPA rules to address the pollution that comes from fracked gas and other polluting fossil fuels. We hope you offer as much clarity as possible in the process going forward, while narrowing any opportunities

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<sup>3</sup> Draft GAP Rule Framework. March 2021. P. 7.

for major sources of greenhouse gas emissions to escape a detailed and scientifically robust SEPA review.

Sincerely,

Dan Serres  
Conservation Director  
Columbia Riverkeeper