



August 7, 2020

Cherry Point Refinery
BP America, Inc.
4519 Grandview Road
Blaine, WA 98230
USA

VIA EMAIL

Fran Sant
GAP Rule Rulemaking Lead
Washington State Department of Ecology
gap-rule@ecy.wa.gov

Dear Ms. Sant:

On behalf of the bp America, thank you for the opportunity to share our thoughts on certain overarching principles related to the Washington State Department of Ecology's ("Ecology") Proposed Greenhouse Gas Assessment for Projects Rulemaking (the "GAP Rule").

bp's ambition is to become a net zero company by 2050 or sooner, and to help the world reach net zero. bp also supports Washington's efforts to achieve net zero by 2050. Consistent with bp's ambition, we are actively advocating for well-designed policy addressing greenhouse gas ("GHG") emissions in jurisdictions around the world. We appreciate Ecology providing bp the opportunity to continue this advocacy in Washington, where the company's Cherry Point refinery will continue to undertake ambitious efforts to reduce its GHG emissions and to advance the energy transition.

bp has identified six principles that we hope you will consider in developing the new GAP Rule. They are outlined in the attached document for your review. We hope this rule and other carbon pricing legislation puts the state at the forefront of future projects.

We share these principles to inform potential future discussions on this important rulemaking. Please feel free to contact me at thomas.wolf@bp.com or 360-483-7438, or Jim Verburg at james.verburg@bp.com or 360-296-0692, if you would like to discuss further.

Sincerely,

Tom Wolf
Director, Communications & Advocacy

cc: Lauren McCloy, office of Governor Inslee
Reed Schuler, office of Governor Inslee

Proposed GAP Rule Principles

The Washington State Department of Ecology (“Ecology”) should consider how best to ensure that the GAP Rule will:

- **Be Economy-Wide and Complement Other Federal and State GHG Regulations.** The proposed GAP Rule can play an important role in facilitating the consideration of the potential impacts of GHG emissions from all actions subject to the State Environmental Policy Act (“SEPA”). To that end, bp believes that the GAP Rule should be comprehensive and apply across all segments of the economy. In addition, the GAP Rule should also be designed so that it can be well integrated with other existing and future state and federal regulations that address GHG emissions—including air permitting requirements and a potential carbon price to ensure its effectiveness and to avoid conflicts and redundancies.
- **Encourage the Transition to a Low Carbon Future.** Achieving net-zero will require innovation and significant investment. Regulations that include certain, practical and effective requirements can serve as an *incentive* for capital projects that would increase efficiency, lower GHG emissions, and produce cleaner products. To facilitate innovation and investment occurring in the State of Washington, the GAP Rule should:
 - Establish exclusive and uniform requirements binding on other state or local agencies, in order to prevent a patchwork of overlapping, duplicative, and sometimes counterproductive regulatory efforts by multiple regional and local governments.
 - Contain clear, unambiguous language and provide predictability on its requirements for analysis and mitigation of GHG emissions. Establishing such a rule will lessen the risk for disagreement among project proponents, agencies, the public, and ultimately the courts. As you know, disagreements can lead to delays in project implementation, causing project proponents to pursue opportunities in other jurisdictions.
 - Incentivize investment and innovation in technologies that facilitate the energy transition. Ecology could achieve this outcome by, for example, allowing industry to seek credit for and capture the benefits of operational efficiency improvements, investments in renewable fuels, and carbon dioxide removal activities.
- **Avoid Unintended Consequences.** To ensure that industries are fully able to continue safe, economically viable operations in Washington, the GAP Rule should include reasonable thresholds for reporting, analysis, and mitigation requirements that, among other things, allow industry to perform routine maintenance related to safety and operational efficiency, as provided in Ecology’s former GHG emissions guidance. Further it should be carefully designed to avoid carbon leakage.¹
- **Any Required Mitigation is Reasonable and Achievable.** Consistent with Ecology’s current SEPA rules, project proponents should only be responsible for mitigating those impacts that can be controlled by the project proponent or agency. The GAP Rule should be consistent with the SEPA principle that mitigation measures “shall be reasonable and capable of being

¹ Carbon leakage is the counterproductive phenomenon in which the unilateral regulation of GHG emissions in one region/area results in emission producing activities moving to another region/area, undermining the effort to reduce GHG emissions. This may occur at a national, state, or local level.

accomplished.” RCW § 43.21C.060. In addition, Ecology recognizes in its SEPA rules that the scope of impacts analysis may be “wider” than the impacts for which agencies may require mitigation. WAC § 197-11-060(4)(e). Accordingly, while mitigation is an important part of the proposed GAP Rule, any required mitigation should be reasonable and achievable.

- **Provide Clear Direction on the Scope and Methods of Calculation for GHG Emissions to Project Proponents and Decision-Makers.** Analysis of potential GHG emissions is a complex endeavor given the multiplicity of sources of potential GHG emissions in the lifecycle of a project or product, the global nature of climate impacts, and the lack of clear consensus among government agencies and courts over the appropriate scope of analysis. Consistent with SEPA’s purpose to inform agency decision-making, the GAP Rule should provide practical, realistic direction on the scope and methods for calculating GHG emissions that will be meaningful and helpful to decision-makers. The GAP Rule should not require project proponents or agencies to conduct analyses of GHG emissions that are remote or speculative.
- **Leverage Industry and Other Stakeholders’ Experience and Expertise.** Analysis of potential GHG emissions is evolving. Numerous sector-specific tools have been developed to analyze GHG emissions. Industry has gained significant experience using these tools and analyzing GHG emissions under many regulatory regimes. The GAP Rule should provide direction and set expectations -- and allow industry and government to use well-established methodologies and tools for quantifying potential GHG emissions.

#