



December 9, 2020

Ecology Director Watson,
Fran Sant, Rulemaking Lead, GAP Rule
Department of Ecology
Via email to: gap-rule@ecy.wa.gov ; laura.watson@ecy.wa.gov

RE: Comments on Chapter 173-445 WAC, Greenhouse Gas Assessment for Projects (GAP)
Rule.

Dear Director Watson and Ms. Sant:

Thank you for your work on implementing Governor Inslee's Directive 19-18 issued on December 19, 2019 to develop rules for Greenhouse Gas Assessment for Projects (GAP). There is no time to waste for our State to uniformly review the lifecycle greenhouse gas emissions from fossil fuel projects using the best available science pursuant to Ecology rules. The proposed rule is very comprehensive and I appreciate the broad engagement across the spectrum of business, government and climate advocacy interests.

As you may know, I introduced HB 1597 in 2019, to incorporate comprehensive measurements of greenhouse gas emissions from fossil fuels into state environmental laws. This bill sought to ensure accountability of greenhouse gas impacts from methane emissions from natural gas that leak out of the delivery system from wellhead to end-use (lifecycle).

While the Governor's directive is more comprehensive than just upstream methane emissions, I want to ensure some fundamentals about methane leakage are not lost or minimized in your comprehensive rulemaking. More specifically:

- The rule should incorporate conservative assumptions on upstream emissions. There are many different estimates for methane leakage rates and the **rule must require use of the best available science to accurately assess upstream emissions**. Whenever there is scientific uncertainty as to the leakage rate, the rule should require conservative assumptions such as confidence that there is a 95% chance that leakage will not exceed the estimate.
 - Rules should be updated or phrased to incorporate new data or calculations when they reflect strong strength of evidence in formal reviews by the Department. Thus, the rule should reflect the current plan for the international

assessment used by the rule to be “the most recent work of the U.N. Intergovernmental Panel on Climate Change (IPCC), including: GWP calculations and context, Scientific review work, and Technical guidance on greenhouse gas inventories and measurement”

- As stated in the Governor’s directive, the rule must consider both a 20-year and a 100-year global warming potentials (GWP). This is important because using the 20-year GWP for methane is essential if we are to respond to the near-term opportunities for climate mitigation that the Intergovernmental Panel on Climate Change has indicated are urgently needed.
- Ecology’s rule must not allow project developers to cherry pick their fuel supply sources because this would not address "climate leakage" where securing fuel supply from one source simply pushes the remaining buyers off to other sources so a regional analysis of overall fuel supply is the right approach. This also ensures consistency in how the rule is applied and limits the ability to manipulate the rule. As the Governor’s directive states, the rule should “establish **uniform** [emphasis added] methods, processes, procedures, protocols or criteria that ensure a quantitative assessment and quantification of direct and indirect greenhouse gas emissions resulting from a project.”

If such consistency is not required by rule, Ecology would not be able to meet its obligations to fully review all related potential significant impacts, because project proponents would not have shared specifics of sources they may switch to even after analysis of a lower emission source.

Project proponents must not be able to substitute unenforceable claims regarding future contracts and methods, such as transportation modes or well drilling and pollution control technologies, rather than rely on uniform data that Ecology has reviewed for all similar lifecycle project reviews. The rule must not allow for substitution of vetted uniform market or geographic based data based on claims that other sources will be contracted to supply the project or unique capabilities will be utilized despite lack of ability to enforce such claims.

- SEPA mitigation authority – “substantial SEPA” – must be utilized to ensure that the lifecycle elements analyzed for emissions are incorporated into all relevant permits.
- Projections of increased fossil fuel use “induced load” must be included and based on uniform econometric methodologies that are transparent and available for review prior to utilization.

The outcome of this rulemaking remains a key interest to many legislators. The precedent you set with this rule will have profound effect not just on new projects, but how we assess existing projects. Further, since this rule is a first-in-the-nation, Ecology must make sure it is sticking to sound science and not being pressured to undercut an honest assessment of impacts.

Future generations are counting on the Department of Ecology to develop a model rule. Please do not hesitate to contact me if you have questions or if there is anything further I can do to help support this effort.

Sincerely,

A handwritten signature in black ink that reads "Gerry Pollet". The signature is written in a cursive, flowing style.

Rep. Gerry Pollet

Gerry.pollet@leg.wa.gov

(206)307-0409

CC: Governor Inslee Policy Team

Lauren McCloy

lauren.mccloy@gov.wa.gov

Reed Schuler

Senior Policy Advisor, Climate & Sustainability

reed.schuler@gov.wa.gov

Drew Shirk drew.shirk@leg.wa.gov

Denise Clifford, Ecology denise.clifford@ecy.wa.gov

Rep. Joe Fitzgibbon