

Stakeholder Meeting Summary
Chapter 173-407 WAC
Greenhouse Gas Mitigation Requirements and Emissions Performance Standard for Power Plants
April 13, 2017 1:00 – 3:00 PM
Ecology HQ, Lacey, WA

Caroline (Ying) Sun (Ecology) gave an overview of the rulemaking process and went over major changes in the draft rule language.

Next steps:

- You will provide comments for the draft rule language **by May 12, 2017** (please send comments to Caroline at caroline.sun@ecy.wa.gov).
 - Let us know if any of the changes would be burdensome for you to comply.
- Ecology will post revised draft rule language based on your comments by May 26, 2017.

The following is a summary of the key notes, questions and concerns shared at the meeting:

- **What is the definition of “nonfossil fuels”?** Part I of the rule defines fossil fuels. Any fuels that are not listed in the fossil fuel definition are nonfossil fuels. Part I of the rule considers nonfossil fuels do not emit CO₂.
- **Some facilities use intermittent fuel source, such as wind power, and another fuel, such as natural gas, as supplemental fuel. This rule seems written in a way that assumes continuous fuel usage as identified in the permit. Is there any consideration for facilities that normally operate at a capacity less than what’s identified in their permit?** For calculating total CO₂ to be mitigated, the rule assumes that each facility is operating to the full extent allowed in their permit. This includes the use of supplemental fuels in duct burners, or alternate fuels identified in the permit.
- **Ecology is considering replacing the current fuel to CO₂ conversion factors in WAC 173-407-050 (1)(e) with emission factors in 40 C.F.R. Part 98, Table C-1. It seems to be no objections from the stakeholders.**
- **What are the criteria for approval of reselling the credits purchased for CO₂ mitigation (WAC 173-407-060 (4) (d))?** The approval criteria are currently not outlined in the rule. In order to get approval, the resold credits would at least need to be offset by other CO₂ mitigation methods and the reason for reselling the credits would also need to be evaluated. We originally envisioned this might not happen until the plant closes or changes from baseload to peaking status. We will work on better outlining the approval criteria for how entities can resell credits.
- **WAC 173-407-060 (5) (c) Ecology is recommending replacing the phrase “within a reasonable time” with “operational within one year after the start of commercial operation” . What if affected facilities need additional time and flexibility for permitting and planning?** Any planning and permitting would occur prior to the start of commercial operation because facilities need to obtain permits prior to start of construction. Furthermore, we added the language in the draft rule that facility can request an extension of mitigation project implementation deadline, which gives facilities flexibility.
- **WAC 173-407-110 Defined “Commission”. Why did Ecology strike out that definition?** Ecology decided to replace “commission” with “UTC” for clarity in the rule language. Hence, Ecology removed definition for “commission” and added definition for “UTC”.

- **What the difference between “exempt from” and “deemed to be in compliance” in WAC 173-407-120 (3)?** “Exempt from” means the facilities/units are not subject to the requirements of this Part. “Deemed to be in compliance” means the facilities/units are subject to the requirements, but are in compliance until applicability is triggered.
- **WAC 173-407-120 (3) (e) references RCW 80.80.040 (3) (c). Could Ecology summarize the specific requirements from the RCW in this rule?** We will consider summarizing the specific requirements to make them more clear in the rule.
- **A discussion was brought up for new versions of power purchase agreements which may be short term or long-term in duration. The example given was for a long term contract for capacity or peaking power with a power aggregator. How would the terms of the contract be addressed?** First of all, Ecology will evaluate the term of the contract against the definition of long-term financial commitment under this rule (the 5 years criteria). Not having experience with this type of contract, Ecology could not provide a definitive answer.
- **Ecology is not incorporating “memorandum of agreement” sections in Chapter 80.80 RCW in the rule and just let these sections live in the law. Ecology asked TransAlta’s opinion.** The initial response was that this approach sounded appropriate but TransAlta needed some further internal discussion after the meeting.
- **WAC 173-407-120 (3) (d) includes the term “long-term financial commitments”. Could Ecology explain what that means?** Part II included definition of “long-term financial commitment”.
- **WAC 173-407-130 (2) (a) contains the table which Ecology intends to incorporate by reference of EPS in Commerce’s rule. Ecology asked stakeholders’ opinions on this approach and there seems to be no objections. Is there any circumstance that Ecology would not adopt the Commerce EPS?** No. This is a clear requirement defined in RCW 80.80.040.
- **Ecology asked stakeholder’s opinion on moving Section 173-407-230 to follow Sections 173-407-140 and 150 where it is used. There seems to be no objections.**
- **Ecology is considering using either net output or name plate rating to determine CO₂ monitoring methods in WAC 173-407-230 (1)(c)(ii)(A) and (B). We asked whether the revenue meter is still accurate to measure the net output.** The stakeholders said the revenue meter is still the good point to measure output and therefore, it is appropriate to use net output in this context.
- **Ecology is considering using the emission factors for NO₂ and CH₄ in 40 C.F.R. Part 98 Table C-2 instead of requiring facilities to perform stack tests for obtaining site specific emission factors. There seems to be no objections on this proposed change. One stakeholder asked if facilities can still opt to do stack tests and have site specific emission factors.** Yes, although Ecology proposes to no longer make stack testing a mandatory requirement, this proposed rule change would not prohibit a covered party from conducting stack tests to generate site specific emission factors. Ecology will revise the rule language to make this clear.
- **WAC 173-407-230 (1) (d) specifies “fuel usage will be monitored by measuring continuous fuel volume or weight as appropriate for the fuel used”. If an entity uses wood scraps with multiple species of wood and different moisture content, for example, the heat content will vary. Did Ecology take these types of considerations?** Ecology will look at the language and consider better outlining and defining this section.
- **Ecology will be adding monitoring and recordkeeping requirements for fuel feed stock and its heat content in WAC 173-407-230 (1)(d) since they are part of the calculation in WAC 173-407-**

140 and 150. Ecology will have draft rule language for these requirements when we post next version by May 26, 2017.

- **WAC 173-407-300 (2) (b) states the long term financial commitment with BPA is deemed to be in compliance with the GHG EPS”, while WAC 173-407-120 (3)(d) states all new or renewed long term financial commitments with BPA are exempt from meeting the GHG EPS. Why are they stated differently?** According to RCW 80.80.040 (2), “exempt from” is appropriate in both contexts, therefore, Ecology will revise the language in WAC 173-407-300 (2)(b).
- **WAC 173-407-300 (2) (c) states that for long-term financial commitments with multiple power plants, each power plant must individually meet the GHG EPS in WAC 173-407-130. Is there any room to make this requirement more flexible?** No. RCW 80.80.040 (8) clearly stated this requirement.
- **WAC 173-407-300 (4) specifies that Long-term purchase of coal transition power is exempt from meeting the GHG ESP as long as the term of the long-term purchase meets the schedule in RCW 80.80.040 (3) (c). TransAlta asked whether Ecology can use the expiration date of the agreement instead of the schedule in RCW 80.80.040 (3) (c)?** Ecology would like to ask TransAlta to further comment on this item and will consider any further rule changes based on the comments.
- **Evolution of the power market has changed significantly since the development of this rule. For example, organizations can now purchase long-term and short-term capacities. Will this rule, as proposed, consider the evolution of a market selling and buying capacity and reserve products?** Ecology will consider this, but we need to see some examples of purchase contracts reflecting conditions like those identified in the comment. If we have a better idea on how the market and contracting world is structured, we may be able to ensure this rule addresses those concerns, within the confines of what the law says.

In-person attendees:

David Nicol from TransAlta
Ian Hunter from Snohomish PUD
Jeremy Smith from Pacific Corp
Nicolas Garcia from Tacoma Power
Jim LaSpina from EFSEC
Dan Rottler from Invenergy
Shingo Yamazaki from Ecology
Caroline (Ying) Sun from Ecology
Al Newman from Ecology
Jason Alberich from Ecology
Bill Drumheller from Ecology
Cindy Bradley from Ecology

Call-in/webinar attendees:

Daniel Bedbury from Clark Public Utilities
Terry Toland from Clark Public Utilities
Nancy Atwood from PSE
Keith Faretra from PSE
Lorna Luebbe from PSE

Mary Wiencke from PacifiCorp
Greg Nothstein from Commerce
Paul Hoebing from TransAlta
Cliff Sears from Grant PUD
John Lyons from Avista Corp.
Andrew O'Connell from WA Attorney General's Office, UTC Division
Ric Chernesky from Atlantic Power – Frederickson
Lauren McCloy from UTC
Oradona Landgrebe from Seattle City Light