

Greenhouse Gas Reporting Rule Advisory Committee
Meeting Notes for February 12, 2009
(Sixth Meeting)

Location: WA Department of Ecology Building, Lacey

Time: 9:00 AM – 4:00 PM

Meeting Objectives:

- Review and comment on draft rule language for various topics, including: Quantification Methods; Applicability; Reporting Responsibility; Phasing, Reporting and Certification Schedules, and Verification Requirements.
- Agree on next steps and focus for Meeting 7.

Advisory Committee Members Present:

Dave Moore (Boeing), Rebecca K. Cate (Climate Solutions), Janet Benish (Costco Wholesale), Kelly Green (Enterprise Rental Car), Allen Jones (Office of Public Instruction), Dale Morin (United Parcel Service), Debbie Gaetz (WA Construction Industry Council), Bryan Bazard (WA Department of General Administration), Greg Hansen (WA Department of Transportation), Conan O’Sullivan (WA Refuse & Recycling Association), Matt Cohen (WSPA, ALCOA, Nucor Steel).

Staff Members Present:

Ecology Staff: Nancy Pritchett, Alan Newman, Neil Caudill, Gail Sandlin; Kathy Sundberg.

Attorney General’s Office: Kay Shirey (Assistant Attorney General).

Observers Present:

Jim LaSpina (EFSEC), Emily McMason (general public), Jody Snyder (LRI), Sylvia Stanley (Pierce County Transit), Keith Faretta (PSE), Tim Newcomb (Private Consultant), Nicolas Garcia (Tacoma Power), Liz Fedorowitz (Trinity Consultants), Tom Payant (Snohomish PUD), Pete Hildsborough (Western States Petroleum Association/Alcoa)

Facilitator: Bonnie Snedeker

Morning Session:

The meeting convened at 9:06, with an agenda overview and round of introductions.

During the morning session, Gail Sandlin, Alan Newman and Neil Caudill presented overview information and reviewed proposed draft language on Quantification Methods, WAC 173-441-100 through 110. You can access the presentation materials at <http://www.ecy.wa.gov/programs/air/pdfs/GHGemissionscalculationpresentation.pdf> .

Discussion questions and comments from the morning sessions are noted below by topic.

100(2)(a) – Direct Emissions from Stationary Sources

Q: *I'm a little confused, if it is technically possible for you to determine facility CO2 emissions through continuous monitoring (Tier A1), is it required that you do so? At any cost? The rule language says if you "can". What does that mean?*

A: This is qualified. Our intent is if you have the capacity and are already doing it. We don't mean to require added technology. We may need to add some clarification in the rule text.

C: *Chapter 10 of TCR gives direction on tier selection. You are encouraged to use the most precise/accurate method but allowed to go to a lower tier method if technology or resource constraints dictate.*

R: We can modify our rule language to include this reference.

Q: *Will we be reconciling this with WCI? And, if so, when?*

A: Yes, when the WCI process is complete (within a year from now). Until then we'll use the more flexible TCR protocol. WCI may end up being more specific. Continuous emissions monitoring (CEMS) will be the preferred method.

Q; *From the public policy perspective, what is the value of mixing more precise (Tier A) data with less accurate (Tier C) data from other uses in the facility? Doesn't this just dilute the overall accuracy of the data?*

A: You will likely have emissions from multiple sources totaled up in the final number you report. You may use a variety of methods, but this final number will be more precise than if you simply used the lowest tier quantification method for all sources.

Q: *Can the data we enter in TCR show which method is used for which sources within a single facility?*

A: For voluntary reporters, TCR usually breaks down the elements in your calculation – so you can see which method is used for which source. It's not clear yet what level of detail will be used for WA State TCR reporting. The Department is not so interested in the breakdowns. But third party verifiers will want to know how you calculated and arrived at your CO2 emissions.

- Q:** *What about vendor (supplier) data and source data (sample analysis)? Can we use that?*
- A:** Yes, that would be Tier B.
- Q:** *The rule doesn't seem to allow for estimation methods that may practically have to be used by reporters?*
- A:** We will be including a discussion on simplified methods for minor emissions in our quantification section.
- C:** *Even larger reporters may have to use estimation techniques (for more than minor sources) – Like billable values only. .*
- R:** This will need to be worked out on a facilities specific basis.
- Q:** *What about methane from landfills? How is this calculated and reported?*
- A:** Biomass emissions must be calculated separately from other fuels. Use the same methodology but report it separately.
- C:** *The issue will be finding an emission factor for it. We may need more clarity on whether landfill gas is biomass or other fuel. And guidance for designating specific emission factors.*
- R:** Default values are provided in the TCR protocol.
- Q:** *The WCI 1-06-09 Essential Requirements document, referring to methane from landfills, states that the existing methods are “too inaccurate” to include in reporting at this time. Could the Department follow this guidance and exclude this from reporting for the first few years, while working with reporters on better methods?*
- A:** We will look into this and see what's appropriate.

100(2)(b) – Direct Emissions from Mobile Sources

- Q:** *What if I have a licensed motor vehicle but it is used only within the facility?*
- A:** This would be considered part of the stationary sources. It would not be considered a fleet unless it gets used outside the facility.
- Q:** *It just seems to be causing unnecessary confusion between highway and non-highway uses. Why calculate these vehicles separately when they have the exact same emission factors?*
- A:** You would use the same calculation method for each type – but aggregate each to a different “source” category for reporting.
- Q:** *Does ecology really have the legal right to regulate for mobile sources like tractor and bulldozers that aren't specifically directed at “moving people or cargo”?*
- A:** As we interpret it, yes.
- C:** *This is something we may want to pursue further – to make sure the State isn't overstepping its bounds.*

- Q:** *What about a factor for propane – for calculating methane from non-road vehicles, by fuel use when we have no mileage data?*
- A:** We'll look into this.
- Q:** *As a utility, what happens when we send a vehicle to help out in another state? Do we have to separate out in-state from out-of-state travel?*
- A:** It depends on the quantification method you use. Once you select a method, you must be consistent.
- Q:** *I know that Tier A accounts for specific miles in Washington versus out-of-state. But does any standard method exist within industry for accounting this way?*
- A:** Yes, for interstate trucking, this is an established practice. Our thinking has been that Tier A would be used for interstate trucking. Tier B would be most practical for public fleets. And Tier C could be used by rental agencies, where there is no tracking of where fuel is purchased or where driving has actually occurred.
- Q:** *Has the Department had any input from the airline industry?*
- A:** I believe that were some early interactions which alerted us to issues and led to the decision to defer/phase-in reporting.

100(3)(a) – Indirect Emissions from Electricity Use

- C:** *The rule-making process should acknowledge that different emission factors are being used. We would like to look at the quantity of electricity purchased and where it was generated versus self-selecting and using different emission factors*
- R:** We would hope to use fuel mix disclosure reports to come up with specific factors for WA utilities. As it is eGrid factors will be high for some – and low for others. But it's complex and given the time frames and changes over time, there will be a time lag issue; the utilities won't have timely/accurate data for emission factors.
- Suggestion:** *Please work with utilities in Washington to come up with local emission factors we can use. Even if they lag behind a year, that would be better for us than using egrid data.*
- C:** *I agree! This represents a large majority of our total emissions. Accuracy is important. We should use local CO2 number and rely on eGrid only for methane and nitrous oxide.*
- R:** The fuel mix disclosure data was – and is – not designed for calculating GHG emissions. It's not clear that Ecology can use those reports for this purpose. But we will continue to explore this.
- C:** *Please follow through on this. It will be highly important for cap and trade.*
- R:** We don't yet have a cap and trade mandate or clear direction from the Legislature. We could modify our rule when – and if – that occurs.

100(3)(b) – Indirect Emissions from Combined Heat and Power Plants

Ecology: These emission calculations will be provided by the generator or direct emitter to the user or indirect emitter.

Q: *Will that be provided on a timely basis for reporting purposes?*

R: That is not currently covered in the legislation or the rule. We will probably need to specify a schedule.

C: *You need to add language here on “owner-operator”.*

R: Yes, we’ve got that. Thanks.

100(2)(d)(i) – Fugitive Emissions from Refrigeration and Air Conditioning

Q: *I understand that we can use the simplified screening method for refrigerants. But in the case of leasers, we would not usually need to worry about the installation or disposal emissions – just the operations leakages – right?*

A: Yes, in most cases.

Procedural Note:

An issue was raised about another meeting that had been scheduled for the afternoon (2-12) on cap and trade and other legislative concerns. Some of the business representatives wanted to attend this meeting, which would absent them from the afternoon session. A request was made to stop the meeting at the lunch hour and defer the remaining topics on the agenda to a later meeting. The decision was made to continue the meeting with whoever was able to stay – with the proviso that others could submit written comments or questions via email. In the end, most attendees elected to stay for the afternoon session.

Afternoon Session:

During the morning session, Nancy Pritchett presented overview information and reviewed proposed draft language on draft rule sections: WAC 173-441-030 through 090. You can access the presentation materials at <http://www.ecy.wa.gov/programs/air/pdfs/GHGwacpresentation.pdf>.

Discussion questions and comments from the morning sessions are noted below by topic.

030 – Applicability

- Q:** *If my mobile sources don't meet the 2,500 threshold for fleets, then do I have to include them in reporting for a specific site or facility?*
- A:** Yes, you should report them to the site they come and go from.
- C:** *That doesn't make sense to me – if they are actually fleet vehicles they serve a number of sites. Why can't we just leave them out if they don't meet the threshold – unless they actually are specific to just one site or facility?*
- R:** Let's look at this more closely. The issue would be the first few years of facility-level reporting. After that they would get rolled up in the larger entity.

040 – Falling Below Reporting Thresholds

- C:** *Requiring reporting for 3 years when an entity falls below the threshold seems way too onerous. One year would seem fairer.*
- R:** We are trying to be consistent – and looking ahead to cap and trade. One year wouldn't cover cycles of economic downturn.

050 – Reporting Responsibility

- Suggestion:** *In terms of operational control for fleets, could we add “who pays the fuel tax” to the rule language on “ability to track”?*
- R:** This may not be as clear cut as we thought. We'll keep looking at this.
- Q:** *Under 050 1 (a) in the rule, is “lessee” the right nomenclature? Does this apply to stationary sources? Can't we use the standard language of “owner-operator”?*
- R:** Ownership or lease of a building may be beside the point. Maybe we don't need this for stationary or combine sources? Or maybe we do? Let's relook at “operational control” and think about whether lessee language helps or hurts.

060 – Reporting Requirements for Aircraft

- Q:** *I'm concerned about tracking aircraft emissions for flights that begin and touchdown in Washington before continuing out-of-state. We don't currently track flights by leg – so this could require new tracking protocols and costs for the company. Why can't we do it like automobiles, e.g. by fuel purchased within Washington State?*
- R:** Let's look at various protocols and methods. We have to include reporting on in-state air travel by 2012; this gives us time to consider methods.

070 – Phasing in Thresholds and Reporting Requirements

Q: *I have questions about the proposed phasing. What is the rationale here?*

A: Our thinking is to capture the largest users/emitters first and give the smaller emitters a chance to get on board. At the 25,000 threshold, we estimate covering well over 60% of the total emissions. With the 10,000 threshold, we'll pick up the next biggest users/facilities (est. over 80% of total.) When we go to statewide entity reporting at the 10,000 threshold, we should pick up another 5-10% of total emissions.

Q: *For public utilities, would it be possible for us to separate out facilities or entities that share an SIC code but have different purposes or functions, such as water, electric or rail utilities?*

A: This won't really matter once we go to entity-level reporting. We haven't yet defined "entity", but we're looking at an aggregate "parent" level – not at facility/SIC codes.

080 – Emissions Reporting & Certification Schedule

C: *We still think that April 1 is way too early (for reports requiring third party verification). This is totally impractical for us!*

(Agreement to this comment expressed by a number of other industry representatives on the committee)

R: What *would* be reasonable?

R2: *October 1 makes the most sense. Even June would be okay. It's a question of good data versus early timing. We're putting a lot of other reporting information together for the State in April.*

Q: *How much time does the verifier really need? Why can't our information go directly to the verifier versus going the Department?*

A: Our thought was to get it into the TCR data base. The information wouldn't necessarily be used by or available to the department before verification. But we'll go back and look at the April 1 date.

C: *On record, we really dislike the "hands off" relationship for third party verification that is being specified in the rule. It would seem to exclude any third part entities who actually understand our business. Can't we have objectivity and also have a relationship?*

Q: *My concern is what level of detail will be available to the public from our reporting to the TCR data base? Will all our detailed data down to the facility level be available?*

A: It is useful for the Department to have the facility-level information, and the information reported to the State becomes subject to public information laws.

- R:** *Uh oh! That's a business problem for us. That level of detailed information should not be made publicly available.*
- R2:** What is the problem with reporting energy consumption in a publicly available report?
- R3:** *Nothing if it's aggregated at the facility or entity level. But if the data we report to the TCR data base is detailed enough to allow for precise third party verification, then it is too detailed to be releasable as public information.*
- A:** We need a conversation with the legal folks, Ecology and the business reps to further explore and clarify all this.

090 – Third Party Verification of Reported Emissions

Suggestion: *Why not just have third party verification at the facility level (rather than entity level) above the 25,000 threshold – since that is what will be covered under cap and trade?*

Suggestion: *Why not use self-certification after the first year of dropping below the 25,000 threshold? Ask reporters to tell you why they dropped below.*

Q: *Why do you really need a third party verifier if all the detailed information is available to Ecology? We would support adding capacity at the Department to monitor and verify reporting.*

A: I think the issue is our platform and data base. We're working with TCR on the platform for Washington reporters. Ecology does not necessarily need nor will it use the level of detail that third party verifiers will need. And we need to address the issue of whether everything that is entered in the data base becomes public information.

Q: *Could we ask TCR what other states and provinces have done with regard to confidentiality?*

Q: *What about facilities/entities that have a "blip" year that takes them above the 25,000 threshold? Requiring three years of verification seems much too onerous!*

A: We've heard both of these issues, and we will go back and look at this.

Q: *On the specifications regarding third party verification, it seems like an unnecessary tension between conflict of interest and objectivity considerations versus knowledge of industry and facility operations needed for an accurate perspective. Is WCI protocol actually that much more rigorous than standard third party financial auditing protocols?*

A: We are trying to follow international standards here. Third party verification is becoming the norm for GHG emissions reporting. While it's true that our legislation does not specifically speak to *third party* verification, it does require verification.

Suggestion: *It seems premature to impose a third party verification program until we have cap and trade legislation. Let's wait until (and if) we have adopted a cap and trade system. We submit a lot of reports and data to Ecology without any third party verification. Why do we need it on this?*

C: *It's pretty hard not to see the whole issue of third party verification as punitive – and going beyond the current legislative mandate. Incentives will generally work better than a “slap on the hand”.*

C: *We support developing in-state capacity through Ecology for hiring, training and certifying verifiers.*

R: We hear you. But there would costs for doing this. And it could be very hard to hire anyone for the next while – given cuts in the State budget.

C: *I'd like to go on record to say that seven year record retention is a burdensome requirement.*

Meeting Adjournment:

4:00

Next Meeting: It was determined after the meeting and communicated via email that the scheduled March meeting would be canceled & the next meeting will be held on April 7, 2009 at the Association of Washington Business, Olympia.