

Greenhouse Gas Reporting Rule Advisory Committee
Meeting Notes for November 13, 2008
(Fourth Meeting)

Location: Ecology Northwest Regional Office, Bellevue

Time: 9:00 AM – 2:15 PM

Meeting Objectives:

- Follow up on previously introduced topics: Emission factors for electricity; Point of regulation; Emissions from employee-owned vehicles.
- Share information & gain initial input on the following topics: Indirect emissions from co-generation, heating and cooling; Phasing in reporting requirements; Reporting fees; and public outreach.
- Agree on next steps; agenda and date for Meeting Five.

Advisory Committee Members Present:

Collins Sprague (Avista), Sheri Sawyer (Association of WA Cities), Dave Moore and Tetyana Lysak (Boeing), Rebecca Cate (Climate Solutions), Janet Benish (Costco Wholesale), Shane Skinner (Enterprise Rental Car), Pamela Barrow (NW Food Processors Association), Russ Simonson (Port of Seattle), Dale Morin (United Parcel Service), Matt Kuharic (Washington Association of Counties), 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, Sarah Rees, Alan Newman, Neil Caudill, Gail Sandlin, Cathy Carruthers, and Kathy Sundberg.
Attorney General's Office: Kay Shirey, Assistant Attorney General.

Observers Present:

Dave Arbaugh (Arbaugh & Associates), Peter Bennar (City of Bellevue), Jess Greenough (City of Pasco), Jack Anderson (Clark Public Utilities), Tim Crause (consultant), Brad Hawkins (Douglas County PUD), Tim Newcomb (Envirometrics), David Newsad (Hoefler Consulting Group), Keith Faretra (PSE), Amy Fowler (Puget Sound Clean Air Agency), Tom Payant (Snohomish PUD), Tom Pitts (Qwest), Frank E. Homes (Western States Petroleum Association).

Facilitator: Bonnie Snedeker

Getting Started

The meeting convened at 9:10 with an agenda overview, round of reintroductions and a plea to all to sign in legibly on the appropriate meeting sign-in sheet. (See http://www.ecy.wa.gov/programs/air/pdfs/ghgmeeting4_agenda.pdf to view the agenda).

Point of Regulation (9:20)

Nancy Pritchett provided an overview of draft rule language related to point of regulation, which had been circulated via email prior to the meeting. (See: <http://www.ecy.wa.gov/programs/air/pdfs/ghgdrafrule.pdf> for the PowerPoint presentation). She pointed out that the language was adapted from the TCR protocols, with the understanding that TCR is a voluntary system that won't work for a mandatory system without some modifications. She reminded the group of the discussion at the September 15th meeting on organizational boundaries. This draft language attempts to address some of the issues raised at that meeting, such as using operational control as the basis for reporting responsibility and addressing lease issues. Nancy also explained that Ecology is proposing to allow for a phasing in of entity-wide reporting by starting with facility level reporting during the first two years – to lower the burden on small source reporters and maintain compatibility with WCI. Neil Caudill's presentation later today on Phasing will explain this in more detail. Nancy explained that this is a working draft and encouraged stakeholders to provide feedback and poke holes in it to help tighten it up. She then walked through each section of the draft language, explaining the intent of the proposed text, answering questions and taking feedback on each section.

Comments & Questions:

- C:** *Please add definitions for “facilities” & “entities”.*
- C:** *Clarify that “direct emissions” means actual emissions from the reporting source. The statute could be clearer on that.*
- C:** *For mobile sources, you need to provide better guidance on what “within Washington State” means.*
- Q:** *How will Ecology monitor those who assert that they don't meet the reporting threshold?*
- A:** We're still working on this but will come up with some type of monitoring.
- Q:** *Why do on-road motor vehicles count if you don't meet the fleets threshold (but do meet the combination of sources threshold)?*
- A:** We are trying to figure out the best way to ensure that these emissions are accounted for. The legislation requires the reporting of combined sources at the 10,000 metric ton level and defines “sources” to include stationary sources and mobile sources for transporting people or cargo. Therefore, mobile sources, including on-road motor vehicles, must be including in the 10,000 metric ton

threshold. The section in the draft rule on “Meeting Reporting Thresholds” is intended to make it clear that mobile sources are included in the 10,000 MT threshold and to provide a process of how to account for these mobile sources as well as the 2,500 threshold for fleets of on-road motor vehicles. Your thoughts are welcome on this.

Q: *On leased vehicles and fleets, it is still not clear where “operational control” lies. What happens when we buy the fuel, but the leasing agent buys the refrigerant? Our contract prohibits us from doing registration, maintenance and repair. Can we say that the registered owner of the vehicles is the reporting entity – even though they may lack the necessary data on fuel consumption?*

C: *We can run into the same kind of problem with facilities!*

C: *It’s hard to see how determination of “control” can be a bright line. Can you really cover all contingencies in the rule? We need to have some provisions for working this out as we move to mandatory reporting.*

A: There will be some issues no matter how we do this. We are going to try to have clear guidelines in the rule going in – get as far as we can on this by January. We’ll see how they work out and make adjustments as needed. We’ve pretty much stuck to operational control as defined by TCR. This is our first stab at dealing with the leasing issue. It looks like one issue is that maintenance can go either way depending upon how the lease is written. With school bus fleets, it seems pretty clear that service contracts are different from traditional leases which provide operational control. But it can be hard to distinguish between an operational contract, contract for services and traditional lease. The issue for us is whether or not the entity has any control over emissions. Reporting responsibility should lie with control. This is draft language – so it’s a work in progress,

Q: *As I understand it, we need to report “off road” emissions from aircraft owned by our entity – but not if we fly out-of-state. TCR follows typical airline reporting guidelines. We need to know just what must be reported. This could be a difficult area.*

A: Our legislation gives us the ability to defer or phase-in – but not to forgo – air and other inter-state travel.

Q: *Are we following TCR guidance on refrigerants for vehicles that are being turned back to the leasing agent? (That would mean excluding the beginning/ending balances.)*

A: Yes.

Q: *As a point of clarification, for fuel used in refrigerated trailers, does that come under “mobile sources”? It would make a difference in the calculations if they were defined as mobile versus stationary.*

A: We are leaning toward “mobile” on this, but have not yet determined. We’ll take a closer look at TCR.

- Q:** *On “indirect emissions” how do we handle market purchases from Idaho?*
- A:** This will be factored into indirect emissions – for both the utility and the end-user.
- Q:** *Why? Why do they need to be counted at all?*
- A:** Good question. WCI protocol is evolving. We may revisit this. It’s possible that WCI and TCR may differ on this issue.
- Q:** *Seeing specific draft language on point of regulation has been really helpful. How do we submit additional comments? Should we wait until the next draft to do that?*
- A:** No, please don’t wait. The sooner we get your comments, the better. Send any comments to Nancy Pritchett.

Phasing in Reporting Requirements (10:10)

Neil Caudill gave a presentation on Ecology’s current thinking with regard to phasing in reporting requirements. (See: <http://www.ecy.wa.gov/programs/air/pdfs/ghgphasing.pdf> for the PowerPoint presentation). He explained the statutory requirements: 1) Phased-in reporting is allowed for entities at the lower threshold level – with the exception of on-road fleets; 2) 2009 emissions data must be comprehensive; and 3) All applicable 2012 emissions must be included in the 2013 report – no more phasing. The 2010 emissions data included in the 2011 report will need to meet WCI standards. He also explained Ecology’s goals for the proposed phasing plan: 1) Reduce the early burden – especially for small sources; 2) Show consideration for the fact that first year reporting obligations will include a period of time prior to the rule adoption; 3) Provide as much meaningful data as early as possible; and 4) Ensure ample opportunity to practice and test the full system prior to the onset of cap and trade requirements.

Comments & Questions:

- Q:** *Does the statute really require WCI compliance? Is it even clear that there will be a single definitive, fully laid out WCI program?*
- A:** The statute does speak to the need for consistency with other reporting protocols. But it is fair to say that this is a strong internal direction within Ecology, rather than a strict legislative mandate. The first year we’ll be using TCR, and we’ll upgrade to meet emerging WCI protocols – with stricter reporting for accounting/cap and trade system needs.
- C:** *There will be serious needs for early outreach – especially for fleets since phasing in is not allowed.*
- C:** *As fleet managers we’re concerned with these “new” data calculation methodologies – as well as the strange timing issues for 2009.*
- A:** Ecology will do outreach on this, and we will tolerate imperfections in the reporting data for 2009 – in the 2010 report. We’ll talk more about outreach plans later today.

Q: *It sounds like we are going to be more burdensome than green fleets initiative? Is that right?*

A: Yes, but the statute pushes us in that direction.

Q: *How about allowing entity-level reporting for fleets? Is that an option? It could be a lot less burdensome.*

A: TCR has that option and we do have the ability to do that under our statute. So please let us know if you have input on that.

Q: *Why would there be a need to verify emissions for those not coming under cap and trade?*

A: For those with emissions below the 25,000 threshold (or perhaps below 20,000), less arduous verification requirements are proposed.

C: *I want to give you some “pushback” on verification: Verification at the third-party level is not mandated by the statute as near as I can tell. Moving aggressively toward that standard poses significant burdens on reporting entities.*

C: *I agree. Just gathering data – like fugitive emissions for grocery stores – is a big deal. Adding third-party verification ups the ante considerably.*

C: *I’m going to push in the opposite direction. 2010 is a base year for cap and trade. Maybe you should consider requiring third-party verification in 2009 – so we move further along on the learning curve and get better accuracy by 2010. European Union countries have had problems with cap and trade – due to poor base year reports.*

A: We get your point here but are concerned that it would just be too onerous a burden to require third party verification too soon. However, because one of the purposes of the rule is to support a market based system such as cap and trade, Ecology supports third party verification requirements for reporters subject to the cap and trade system.

C: *There are some practical issues here: In the beginning, there will be very few certified verifiers. We need to allow for training our own verifiers in Washington State.*

A: We agree. That’s why we’re proposing a phase-in on third-party verification.

C: *There are different levels of third-party verification – not just one approach. We could possibly go with something less rigorous.*

C: *I’d like to suggest requiring no third-party verification at all for entities below the cap and trade level.*

A: We’re looking at that now and seem to be heading in that direction.

Q: *In terms of simplifying reporting couldn't we just look upstream on fuel emission factors – and simplify the need for add-ons like refrigerants. I understand that WCI is looking at on-going calculation factors by fuel source?*

A: That would need to be done on a monthly basis. But what WCI is doing may not work for us.

Q: *Why would we want to even offer an early verification option?*

A: That would be so we could allow an earlier base year to be established and provide credit for near-term emission reductions.

Q: *Is there any definition for generally accepted reporting protocols for interstate emissions?*

A: Not yet but Ecology is looking at this.

C: *For fugitive emissions or refrigeration, I'd like to propose that we allow phasing in reporting.*

C: *Reporting on very small sources is egregious. Can't we focus reporting on sources of 50 lbs or above like EPA Clear Air Act requirements?*

C: *Some refrigerant emissions are not reportable greenhouse gases. Let's be sure to clarify that in the rule-making.*

Public Outreach

(11:00)

Nancy Pritchett gave a brief overview of Ecology's plans for outreach, which gives priority to fleets, since phasing will not be possible for fleets. Ecology is currently compiling a mailing list for fleets and plans to get initial notice out before the end of the year. There will be workshops for fleets in January that will focus on reporting requirements and calculation methods. When it comes to stationary sources, Ecology plans to work through association contacts and asked for assistance from any committee members who represent associations. The Department is open to suggestions on outreach to help us reach as many potential reporters as possible.

Comments:

- *Do a webinar type web-site presentation that people can log into at any time for complete, up-to-date information.*
- *Be aware that interest is expanding rapidly. Get ready to handle a high volume of questions and information requests.*
- *Ecology may need to get a solid experience-based briefing on third-party verification before locking in. What does it take to get capacity up to speed? What (value) does it yield? What does it cost reporting entities?*

Business Travel (11:20)

Sara Rees explained that Ecology was not going to be asking entities to report on “Scope 3” transportation activities where employees are using personal vehicles or other transport not controlled by the reporting entity. (See: <http://www.ecy.wa.gov/programs/air/pdfs/ghgbusinessstravel.pdf> for the PowerPoint presentation.) This also includes contractor owned vehicles and transportation for out-sourced activities. She pointed out that WCI was looking at upstream accounting for transportation fuels. Under this scenario, fleet reporting would be informational only. Cap and trade would be separate. Washington will need to make some adjustment for this down the road. If WCI protocols on this come out in December/January, Ecology may propose some changes in the statute during the 2009 legislative session.

Comment:

- *If we are planning to go upstream anyway, it seems like a big waste to move forward aggressively now on fleets. This is an area of major headache for eligible reporting entities, and it is currently exempt from phasing. Just go for a statute change!*

Electrical Emissions Factors (11:30)

Gail Sandlin got back to the group on progress made toward supporting the ideal approach to calculating indirect emissions from energy use, which would require verified utility-specific emission factors. She reported the outcome of her communications with CTED and explained that the mutual goal was to use fuel mix data for calculation of intermediate factors adjusted for each utility. But getting there will take time and effort. The alternative in the meantime would be to use the eGrid data.

Suggestions:

- *Don't ask entities to calculate their indirect emissions – just have them report the kilowatt hours. That way we can avoid bad data and the need for back calculations. We can reconsider all this when TCR, WCI and the utility source protocols are complete. (Note: There was considerably support for this suggestion.)*
- *Make it even simpler – especially because we don't even know what we're doing with this data and it could be really inaccurate. Why not have the Utilities just report on the energy sold?*

Ecology response: Yes this would be simple but our statute requires us to report indirect emissions by entity. We want entities to understand their indirect emissions and work to reduce them. The more you know about utility factors, the better you can manage them – especially in siting decisions.

Q: *Do California utility-specific factors take into account imported power?*

A: Yes, most probably. There is a Washington/Oregon component.

C: *TCR has a protocol for local governments to calculate their carbon foot prints.*

Cogeneration & Other Indirect Emissions (1:00)

Alan Newman explained the general process from the TCR protocol for calculating indirect emissions from steam, heating and cooling. (See: <http://www.ecy.wa.gov/programs/air/pdfs/ghgcogenerationemissions.pdf> for the PowerPoint presentation.) He explained that unless things change this reporting would be for inventory purposes only. Cap and trade will be based on direct emissions only. He reported that co-generators are already reporting to Ecology on emissions and have mechanisms to distribute appropriately so this shouldn't present problems.

Comments/Questions:

Q: *Doesn't the energy purchaser need to be responsible for calculating and reporting all their indirect emissions?*

A: Technically, yes. But plant enterprises of any size will already be calculating these factors. As long as we know where it's from and how much was used, we should be okay.

Q: *Shouldn't the supplier be responsible for calculating by unit of power (using the protocol) – in order to supply this level of detail/accuracy?*

A: We agree. That sounds good to us.

C: *But what about very small cogenerators – below the threshold? How can we regulate or require them to provide the necessary information so others can compute indirect emissions?*

Q: *Is wood energy a reportable emission?*

A: Yes, but not included in cap and trade.

Q: *If cogenerated power comes through the grid, can it just be treated as purchase of electricity?*

A: Don't know. Ecology needs to look at this.

Fees (1:40)

Nancy Pritchett reminded the group that the statute authorizes Ecology to charge a reporting fee to entities reporting greenhouse gases. (See: <http://www.ecy.wa.gov/programs/air/pdfs/ghgfees.pdf> for the PowerPoint presentation.) She explained the components for determining the reporting fee – which include both start-up and ongoing costs. TCR is developing a shared database system to support a mandatory reporting program. Ecology is participating in TCR's Shared System

Workgroup to develop this database and ensure that it will support Washington's mandatory reporting program. Ecology intends to use this shared database system instead of incurring the additional expenses of developing our own database system. Ecology will need to develop a workload model based on start up and ongoing costs and a cost allocation methodology to determine what the fees will be.

Q: *Why should we (the reporters) have to cover Ecology's "start-up" costs? What is the statutory authority for that?*

A: The statute says "cover the cost of administration." Ecology has interpreted that to cover start-up and design.

Q: *Who will be required to pay?*

A: All reporters will pay – even if they are not covered under the cap and trade.

Q: *The TCR interface is one major factor in ongoing costs. Do we know what this will actually cost?*

A: Probably on the order of \$30,000 to \$40,000 for the state.

Q: *What will the TCR partnership do for us?*

A: We will use the TCR data base management system as the framework for our mandatory reporting system. As a reporter in Washington State, you will not need to become a TCR member or pay directly to TCR. If you are a voluntary TCR reporter, you will only have to report data once to TCR to meet the needs of TCR as well as Washington's mandatory reporting program and any other reporting program your organization participates in that uses the TCR system. TCR is at the facility level – but can be rolled up to the entity.

Q: *What about the elements that are unique to us – different from the standard TCR approach?*

A: TCR will work with us to customize for our state.

Q: *Will that include the most up-to-date emission factors for our locale?*

A: TCR should be able to build these into the system that we pay for as a state. You shouldn't have to recertify factors at the entity level.

Q: *Will TCR calculate our emissions for us?*

A: To some extent – using standard factors or those that we plug in. For example, if you plug in front-end data, you can use their carbon calculator.

Q: *Is TCR the bus we want to get on? What if the federal rule goes in a different direction?*

A: TCR is the bus we are getting on now. This could change down the road.

Q: *Are there any other potential partners besides TCR?*

A: Possible EPA at some point.

Q: *What happens if EPA proposes a reporting framework different from TCR?*

A: Being compatible with EPA would be most important in the long run.

Suggestion:

Don't go too far down the road in a partnership relation with TCR. Wait to see what EPA comes up with.

Ecology Response:

EPA rule may look more like a slate of options than a specific framework. EPA is meeting with TCR in developing its rule. In the end, it will be critical to have our rule compatible with EPA and the federal rule.

Suggestion:

In allocating fees, Ecology should consider the hours spent on verification. The cleaner the data provided by the reporter, the lower their fee should be.

Ecology Response:

Ecology will not be covering the cost of verification. (Verification is not rolled into the administrative fee but would be covered directly by the reporting entity.) But if transaction costs around the data reported are lower maybe it should result in lower fees. This is something we could look at.

Next Meeting:

It was agreed that the December 9 meeting of the Greenhouse Gas Reporting Rule Advisory Committee would be cancelled – in order to allow time for the development and circulation of draft materials by Ecology. The group will meet next on January 8, 2009 at SeaTac Airport. Agendas and other materials will be circulated by email prior to the meeting.

Meeting Adjournment:

2:15