

DRAFT Proposal
Revised by Stakeholder Group
2/12/2021

Proposed GHG Emissions Assessment & Mitigation Provisions for the Cherry Point

Amendments Specific Environmental Policies - Air Quality & Climate

Explanatory Note: For projects that are not “expansions,” existing SEPA Rules would apply.

Proposed Language:

16.08.160.F.1.i. Greenhouse Gas Emissions: The following shall apply to projects that: (1) are expansions of Refineries and Fossil Fuel Transshipment Facilities, as defined in WCC 20.68.153, or new, or expansion of Renewable Fuel Refineries and Renewable Fuel Transshipment Facilities; and (2) will have reasonably foreseeable, probable, direct greenhouse gas emissions resulting from new or modified equipment of greater than 25,000 MT/year as determined by the Northwest Clean Air Agency using methodology consistent with 40 CFR § 98.253, Calculating GHG Emissions (for Petroleum Refineries) and 40 CFR § 98.33, Calculating GHG Emissions (for Stationary Fuel Combustion Sources), as applicable.

(a) Emissions Assessed: The SEPA Responsible Official shall require assessment of the reasonably foreseeable, probable, direct and indirect, gross greenhouse gas emissions caused by the project, consistent with WAC 197-11-060(4)(d). The assessment shall estimate the incremental gross emissions change from a baseline established in current Prevention of Significant Deterioration and/or Minor New Source Review Permit Technical Support Documents.

(b) Impact Assessment: Greenhouse gas emissions impacts shall be assessed using current scientifically valid modeling techniques, accounting for project emissions and gross increases of existing facility emissions resulting from the proposed expansion project. The range of greenhouse gas emissions impacts assessed may be greater than the range of greenhouse gas emissions impacts for which mitigation is required.

(c) Mitigation: The County decision-maker shall require the applicant to identify options for mitigation of greenhouse gas emissions that are caused by the project pursuant to WAC 197-11-660 and WCC 16.08.160.B, and in accordance with the following considerations:

(1) Mitigation measures must be imposed on the permittee to the extent attributable to the identified direct emissions of the project proposal as permitted, as provided in WAC 197-11-660(d). Required mitigation may be limited to direct project greenhouse gas emissions, and may also be required for indirect emissions. Voluntary additional mitigation may occur, per WAC 197-11-660(d). Mitigation shall not be required for projects shown in SEPA assessment to reduce greenhouse gas emissions of existing facilities on a lifecycle basis.

(2) The SEPA Responsible Official shall not require duplicative mitigation of greenhouse gas emissions (MT CO₂e) reasonably foreseeable, probable, and caused by the project to the extent these emissions or a portion of these emissions are otherwise mitigated under other local, state, or federal laws, rules, or permits.

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(3) [PLACEHOLDER: The stakeholder group is further developing language indicating what types of mitigations are acceptable, language regarding availability of local mitigations with respect to permit approval, and other requirements around the execution of mitigations.]

(4) Mitigation based on emission reductions from activities or programs must be: (a) real, specific, identifiable, and quantifiable; (b) permanent; (c) enforceable; and (d) verifiable.

[PLACEHOLDER: A sunset clause is necessary to clarify intent and avoid issues of preemption arising from other, higher level rulemakings. This language is still under development by the stakeholder group.]

Conceptual draft definitions. These definitions apply for the purpose of this section of Whatcom County Code:

- Gross emissions are defined as the actual incremental emissions increases or decreases resulting from the project. Gross emissions do not include reductions or additions from offsite mitigation or lifecycle impacts.
- Indirect emissions are defined as emissions resulting from offsite generation of power purchased for consumption at the facility and emissions from other contiguous or adjacent utilities directly supplying the facility (examples include cogeneration of steam, offsite hydrogen production).