



January 26, 2022

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Mr. Cooper Garbe  
Rulemaking Lead, Policy and Planning Section  
Washington Department of Ecology  
300 Desmond Drive SE  
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*Submitted Electronically*

**Re: Phillips 66 Comments on Washington Department of Ecology Rulemaking - Chapter 173-446 WAC, Climate Commitment Act Program**

Dear Mr. Garbe:

Phillips 66 appreciates the opportunity to comment on proposed Chapter 173-446 WAC – Climate Commitment Act Program. Phillips 66 operates a petroleum refinery in Ferndale, Washington and is a supplier of petroleum fuels in the State. This rulemaking will directly impact our operations. Phillips 66 has experience with large Cap-and-Trade programs with our operations in California and Europe.

We appreciate the information shared in the workshops to-date and draft rule language. We recognize that some of the rule requirements are dictated by the supporting legislation (SB 5126). That said, we encourage Ecology to design a rule that is workable and with manageable impact to Washington business and consumers.

While the workshops have been helpful, Ecology has not yet shared key program design information. This includes 1) program prices such as auction floor price, auction ceiling price and reserve prices and 2) economic modeling. We and other stakeholders cannot properly evaluate the proposed program without this information. We therefore request that Ecology hold additional workshops on these topics before it proceeds to formal rulemaking.

We support the extensive technical comments submitted by the Western States Petroleum Association (WSPA) and offer these comments to further reinforce key points in WSPA comments.

## **Program Start is Severe**

Ecology is proposing to adopt a Cap-and-Invest rule in late 2022 with emission reduction requirements starting in 2023. This proposed immediate program start is severe. Table 200-1 estimates a Total Program Baseline of approximately 71.0 million tonnes (MT) CO<sub>2</sub>e. Table 210-1 estimates program caps of 66.03, 61.06, 56.09 and 51.12 MT in the first four-year compliance period years of 2023-2026. This equates to a 7% emission reduction each year from 2023-2026, ending with a 28% reduction in 2026 versus baseline.

We offer two points. First, it is unusual for major environmental programs to require large emission reductions so soon after program adoption, in this case only weeks or months following a 2022 adoption. As noted in WSPA's comments, the initial caps in similar programs have typically been established at or near the baseline to give companies adequate time to plan, budget and execute projects to reduce emissions. We recommend that the 2023 program cap be set no lower than the program baseline, and no lower than forecasted 2023 emissions.

Second, the cumulative stringency for the first compliance period of 2023-2026 is very aggressive and potentially not workable. Has Ecology secured information from other Washington agencies (e.g. Department of Commerce, Department of Transportation) and done modeling that demonstrates that a 28% reduction in emissions in four years is feasible? Looking at the transportation sector's role in the program in isolation, we are not aware of forecasts that show Washington demand for gasoline and diesel fuel declining at a 7% per year pace. Additional consumer use of electric vehicles could reduce fuel demand but perhaps not at that pace. Potential introduction of more liquid biofuels could reduce obligated emissions but, again, perhaps not at that pace. We urge Ecology to share State energy demand forecasts and associated greenhouse gas emission forecasts, and share this with stakeholders in additional workshops, to better inform 2023-2026 program stringency. We recommend that the 2023-2026 program caps be established using information from State energy forecasts and emission modeling.

## **Program Prices Require Stakeholder Input**

As noted earlier, Ecology has not yet shared key information on program prices. An "xx" is shown in the draft rule language for all five of these program initial price points, which then largely determine the program prices for the next 25+ years to 2050.

- 2023 auction floor price (Section 173-446-335)
- 2023 auction ceiling price (Section 173-446-335)
- 2023 emissions containment reserve trigger price (Section 173-446-340)
- 2023 allowance price containment reserve Tier 1 and Tier 2 prices (Section 173-446-370)

We understand from the workshops that Ecology may be pursuing modeling to inform the selection of these price points. California had a strong public workshop process for its adoption of similar price points. We encourage Ecology to also conduct workshops on its consideration of these price points. Without a better understanding of how Ecology is evaluating and considering these prices, we are limited in our evaluation of the proposed rule.



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## **Biofuels**

Ecology must add clarity to the regulation on how Ecology and obligated fuel suppliers would manage the proposed requirement that biofuels must have a 40 percent lower GHG emissions based on a full life-cycle analysis than their petroleum counterparts to be exempt from obligation. This issue is addressed only lightly in Section 173-446-020(1)(o) Definitions and does not provide adequate structure for fuel suppliers. This is critical as it could impact both current and future Washington biofuels. It may also impact how Ecology calculates the Total Program Baseline and associated program caps. WSPA's comments describe this issue in detail and provide recommendations.

## **Purchase Limits**

Ecology is proposing in Section 173-446-030 to limit the purchase of allowances by covered entities to no more than 10% of the allowances offered at an auction. Ecology should evaluate this proposed limit versus the potential compliance obligation of large individual fuel suppliers. Our review shows that the 10% limit is too low and would not make adequate supply of allowances to suppliers at auction. We support WSPA's recommendation for a higher purchase limit.

**Thank you for this opportunity to submit comments. You can reach me at 832-765-1779 or [steven.d.smith@p66.com](mailto:steven.d.smith@p66.com).**

**Best Regards,**

**Steven D. Smith**



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