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These are informal comments on Ecology's draft rule 173-446

There are several parts of this rule that are not explicit enough for full public transparency or understanding of how the system will work.

In 240(3) – What "for the benefit of customers" is never defined. While some may want all the proceeds to be directly rebated to low-income customers it may be more useful for some of the proceeds to fund low-income home energy efficiency programs or low-income conversion of gas to electric. How much flexibility the gas utilities should be given to make this determination needs to be spelled out. It should also be clarified that the percentages given are a minimum that must be sold for the benefit of customers, not a maximum.

In other sections such as linkage rules and off-set rules the rules rely too heavily on the California system and it is not clear how things will work in Washington.

For example, There are no provisions for the evaluation and acceptance of allowances from a linked state or province (020(rrr)) nor are there any provisions for the registries to note a transfer out of state of an Ecology allowance. There are no provisions for the evaluation and acceptance of an offset project that has been previously approved by a linked state or province. Nor is there any provision for how a potential linkage agreement might be evaluated. That such an agreement will be reached seems to be a foregone conclusion in the statute so it would seem reasonable to begin to consider how they will interact with home grown allowances and offsets. You have noted (020(sss)) that such an agreement will be "nonbinding". It is unclear just what that means; what can you just ignore?

In 510 – You have adopted by reference in 510(1)(iii) three Compliance Offset Protocols that have been adopted by CARB. I presume that means you have thoroughly reviewed them and determined they are as applicable in Washington as in California. It would be useful to publish the results of that review.

I have the concern that entities can "re-define" themselves to not be covered entities by down sizing or dividing themselves up. It appears from the statute and from 030(1) "and for all subsequent compliance periods covered entities are" that this means the policy is "once in, always in". I believe the rule should explicitly state if that is or is not true so no one is surprised later. I favor that approach to avoid artificial ducking below the cutoff or subdividing entities to duck out.

In the definitions –

(ii) "Direct environmental benefits in the State" refers to the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of any pollutant that could have an adverse impact "on land" or waters of the state

"On land" is a recommended addition. It needs to be added where this definition is used later in 446. This phrase is described in more detail in 595 but even there what would constitute an environmental benefit is not fleshed out.

In 200 – It would be reasonable for Ecology to hold another workshop to explain how it is going to come up with the First Compliance Period Total Program Baseline in Table 200-1 and the Total allowances in the program for each year in Table 210-1.

In 230 – It would be reasonable for Ecology to hold another workshop to explain how it is going to come up with the value for the factor in (1)(c)(i) and (ii)

In 300 – The statute calls for "a maximum" of four auctions a year. You have not justified why you are holding so many auctions right away. It might be better to hold only two the first year or two so you have a chance to develop some experience with the auctions and what happens when you put allowances up for auction. This would give you more time to digest the results of each auction and learn from it.

In 335 and 340 - It would be reasonable for Ecology to hold another workshop to explain how it is going to come up with the auction floor price, auction ceiling price and emissions containment reserve trigger price for 2023 in these sections. These prices are fundamental to everything that will come after so it is important that specific public input is requested before they are set. The statute requires certain amounts to be deposited into spending accounts after each auction. It is important for Ecology to present calculations showing how much revenue they reasonably expect to receive given their choices of prices set in these sections, especially given the purchase limits set in 330.

In 370(5)(b) – It would be reasonable for Ecology to hold another workshop to explain how it is going to come up with the Tier 1 and Tier 2 prices for 2023.

Although you have detailed the requirements for an acceptable protocol I have not been able to find a procedure for an entity or an association to submit for consideration a protocol covering a different subject or a different protocol for one of these three subjects. That procedure should be provided in detail. You do describe updating protocols but you do not provide a procedure by which these can be submitted to and approved by Ecology.