



Jessica Spiegel

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Sent via upload to <https://aq.ecology.commentinput.com/?id=mgir9>

Cooper Garbe  
Rulemaking Lead, Policy and Planning Section  
Washington State Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

Re: WSPA Comments on Washington Dept of Ecology Rulemaking for WAC 173-446 Climate Commitment Act

Dear Cooper Garbe:

Western States Petroleum Association (WSPA) is a trade association that represents companies which provide diverse sources of transportation energy throughout the west, including Washington. The way the world produces and consumes energy is evolving. And the members of WSPA are on the cutting edge of those changes, investing in and developing the affordable, reliable, and ever cleaner energy sources and technologies of the future. We believe that, working together, we can rise to the challenge of a changing climate.

We appreciate the opportunity to provide informal comments to the Washington Department of Ecology ("ECY") that highlight early observations for WAC173-446 for Climate Commitment Act Program Rule and the supporting workshops to date. WSPA will submit additional and lengthier comments following the next stakeholders meeting. This program will significantly impact the economy of the State of Washington and it is important to develop a rule that allows the state to progress its climate goals while minimizing adverse impacts.

### **Extend Informal Comment Period After January 11, 2022, Workshop**

WSPA applauds the utilization of an informal comment period for WAC173-446. It is a best practice that should be routinely employed for such consequential rules. In the case of the ongoing informal rulemaking for WAC173-446, we are concerned that many of the most critical topics – inclusive of the auction process, linkage, and implementation timeline – have yet to be covered. That these would be covered in a workshop on January 11, with declaration that the informal comment period concludes on January 18, leaves inadequate time to develop responses for ECY's consideration following this workshop. We strongly recommend that ECY extend the informal comment period and conclude it in February to allow stakeholders to consider the content presented by ECY at the January 11 workshop. This rulemaking is too important to short-circuit feedback for this critical final workshop.

### **Intensity Baselines Require Significant Stakeholder Discussion**

As ECY noted in the December 16 workshop, mass- and intensity-based approaches will result in the same allowance allocation to EITEs in the first compliance period. But selection of the denominator to derive intensity-based approaches will have significant long-term impact on allowance allocation beginning with the second compliance period.

This is particularly the case for refineries, which are uniquely configured, highly complex facilities for which multiple intensity approaches are possible. This complexity makes it imperative that ECY seeks the input of all refiners to land on an optimal, fair approach for the industry. WSPA looks forward to assisting ECY achieve such an outcome.

### **Program Feasibility Is Precarious**

WSPA recognizes that ECY is adhering to legislative direction as it develops WAC173-446, respecting requirements for GHG emission reductions over time, as well as the provision of allowances for stakeholders such as EITEs and electric utilities. The resulting draft rule, however, results in a disproportionate expectation for reduction of emissions from fuels to achieve compliance – particularly through 2030. WSPA members have and will continue to provide the transportation fuels that Washington will need to sustain its economy and will work to help increase utilization of biofuels as WAC173-446 encourages.

But the cap decline indicated in WAC173-446 is steep. No jurisdiction has attempted such an aggressive slope for its cap decline from the onset of its program. As a comparative, the cap decline in California was initially about 1.9%/yr., and in the Europe ETS was about 2.3%/yr. Washington's initialization of its cap-and-invest program at 7%/yr. is unprecedented. Such an approach leaves little opportunity for a fungible allowance market to develop, if not immediately linked to the Western Climate Initiative ("WCI"). It is imperative, as the responsible agency for the State of Washington, that ECY carefully model the rule that has been drafted and provide its outcome to stakeholders to inform their understanding of a credible pathway for compliance with the rule – and the anticipated allowance prices over time that result. Being transparent with this perspective is vital to allow everyone to understand and plan for future costs to manufacture and transport energy sources.

### **Conclusion**

We appreciate that ECY has been given a daunting challenge to manage the many constraints dictated by legislation. Nonetheless, the program that is developed must function in a manner that doesn't damage the economy of the State of Washington. We look forward to continuing to fulfill our role as fuel producers and providers, and thus are key stakeholders that will appreciate a rule that is established to succeed. The final workshop on January 11 will provide key further pieces of understanding and we look forward to actively participating and responding – with the time necessary to do so thoughtfully – to its content.

If you have any questions or comments about the information presented in this letter, please do not hesitate to contact me via e-mail at [jspiegel@wspa.org](mailto:jspiegel@wspa.org) or by phone at (360) 918-2178.

Sincerely,



CC: Luke Martland, Climate Commitment Act Implementation Manager