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Re: Comment Period on Climate Commitment Act Program, Chapter 173-446 WAC

Please accept these comments as part of the rulemaking process for the ongoing Climate Commitment Act rulemaking process on behalf of the Washington Forest Protection Association (WFPA).

The WFPA is a trade association representing private forest landowners with member companies and individuals who collectively own or manage nearly four million acres of private forestlands in Washington. Although our membership is diverse in terms of size, management structure, and forest management approaches, we are unified behind a commitment to engaging proactively in helping Washington craft forestry offset rules that capture the potential value of our state's forests. As such, these comments are limited to the forestry offset portion of the current rulemaking process (proposed WAC 173-446-500 through 173-446-595).

As we pointed out in our response during the informal comment period, we understand the instinct to look south towards California and its existing offset protocols for a starting point in this process. However, in our initial comments we expressed serious concerns when it comes to forestry offsets specifically. We had hoped that the Department would have spent time in the rule development phase to recognize that Washington has a very different forest landscape, history of forest management, forest ownership portfolio, and underlying regulatory baseline than does California. It is worth repeating that, for forestry offsets to work in Washington, forest offset protocols need to reflect Washington's regulatory system and forest conditions. The California model is simply not transferable, in whole cloth, to Washington. The risk to not tailoring forestry offset rules for Washington belongs with the state and not with forest landowners. The landowners will simply not participate in the offset market if the rules are not written correctly. If that occurs, and forestry is not a viable avenue for offset credits at any scale, then the state may find itself hard-pressed to develop sufficient offset credits in other categories to match the compliance expectations of the Climate Commitment Act.

We offer the following recommendations with the goal of helping to craft Washington's rules in a manner that may induce landowner participation.

Most of the issues with the proposed rules stems from proposed WAC 173-446-505(3)(b) on page 69. This section adopts the California Air Resources Board (CARB) rules for forest projects by reference. The subsection sets a precedence of amending how those rules will be applied in Washington but falls short of effective amendments that recognizes the uniqueness of Washington and lessons learned from the 20-plus year California experience.

The list of amendments to the CARB rules that comprise WAC 173-446-505(3)(b) should be extended to include the following changes:

- Make the Washington Forest Practices Rules the regulatory baseline for General Eligibility Requirements. The CARB rules, quite appropriately, bases general eligibility requirements on California forest practices rules. This makes sense for a California program. However, the rules being developed here will govern a Washington program and, as such, the Washington Forest Practices Rules (WAC 222-20-120) should be the baseline. This not only makes policy sense, but also practical sense. Washington landowners should not be expected to apply a new set of forest management requirements that only applies to carbon projects. For example, the CARB requirements in Section 3.1 (a) (4) (a) (limitation to 40-acre clearcuts) and Section 3.1 (b)(3) (prohibiting broadcast fertilization) are not compatible with Washington State forest practices rules.

- The CARB rules on measurement and monitoring requirements to determine a carbon inventory are overly stringent and not in-line with acceptable statistically robust methods. The stringent requirements in this area do not allow for improvement in measuring and monitoring technology. This results in much higher than necessary transaction costs. This is an essential point since one of the identified barriers to landowner participation in carbon markets, be they voluntary or compliance markets, is high transaction costs. The Department has an opportunity in this rulemaking to build in some flexibility in this regard which will lower landowner costs and increase interest in landowner participation. As it is written now, the review process for project validation and verification is too complicated, making it hard to resolve project development expense with income from credit sales. The expense of project development essentially excludes smaller size projects (e.g.<5000 acres). Duplicating the complicated and expensive California inventory model will significantly limit landowner participation.

- The 100-year permanence requirement limits interest in landowner participation due to monitoring costs and future constraints on land transactions. One hundred years is, simply put, a daunting commitment for a landowner. However, such a commitment could be made more acceptable to landowners with the following adjustments:

    - Allow for innovations in monitoring over time, such as remote sensing. Currently a landowner must conduct an on-site inventory every 6 years for 100 years after the last credit has been verified from that project. This is a significant, and expensive, labor-heavy commitment for a landowner to make.

    - Allow for adjustments in the project area so long as the overall carbon stocks remain the same. One hundred years, with no opportunity for flexibility, will also erode landowner participation.

- The proposed invalidation methodology puts too much risk on the seller. The CARB rules puts the risk that a project credit is invalidated (e.g. has a quantification error) on the project buyer. As a result, the offset prices are depressed relative to allowance prices. Quebec addresses this risk by putting more credits into the buffer pool, which is preferable.
- Biomass Incentives are limited to "high hazard areas". The use of biomass as a renewable energy is limited in California because of an overly restrictive definition in the incentive programs that biomass must come from "high hazard zones for wildfires and falling trees". These rules, being incorporated here, result in more biomass being left in the forest or subject to piling and burning. This is an easy adjustment that incentivizes biomass use and helps put an otherwise wasted resource to a beneficial use. In addition, RCW 70.235.020 recognizes emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

- There should be an expanded afforestation opportunity. One uniquely Washington opportunity here involves afforestation, or the reestablishment of forest stands. Offset credits for these investments could spark significant efforts in replanting riparian buffers after wildfires and other disturbances and planting trees along riparian corridors in otherwise non-forested areas. The Climate Commitment Act is, of course, a policy related to carbon emissions. However, efforts to link compliance credits with afforestation, especially in degraded riparian areas, would have the dual benefit of improving salmon habitat by targeting investments where they are needed most to cool streams. Salmon habitat should not be the prime motivation of these rules, but the Department should seek to maximize the operation of these rules to help solve the challenging issue of funding downstream riparian buffers.

The California program has been existence for nearly twenty years. Over that time, there have been some successful carbon offset projects implemented and many lessons learned. The California model should certainly be in the mix, but we urge the Department of Ecology to stretch a little further and develop a diversity of state-based options to consider. Forestry offsets are complicated and technical in nature. We urge the Department to tap a diverse pool of forestry expertise as it moves forward in this rulemaking and future adjustments to these rules. This should include expertise housed in the Department of Natural Resources' Carbon Sequestration Advisory Committee, as well as in private industry and small forest landowners. The WFPA, as a trade association, remains committed to helping provide access to forest climate experts.

Sincerely,

Jason Spadaro
Executive Director