

Kevin Gallagher

Dear Mr. Grice,

Thank you for the opportunity to comment on WAC-173-446, Climate Commitment Act (CCA) Program Rule. I appreciate the hard work the Department of Ecology has been doing to implement the CCA.

However, I have concerns related to the following areas of the draft program rule.

Environmental Justice Council

The timeline for implementing the CCA does not allow the Governor's newly formed Equity and Justice Council (EJC) adequate time to understand the CCA program or its social and environmental context. The draft program rules should define how Ecology will engage with and support the EJC in the development, implementation, and evaluation of the full program.

Ecology needs to define when and how they will provide the EJC details about the CCA program, including:

- * Air-quality monitoring program data, especially data related to emissions-intensive, trade-exposed (EITE)-adjacent, overburdened communities;
- * How pollution allowances will be administered to ensure overall declining greenhouse gas (GHG) emissions under the cap, the appropriate amount of revenue generation from auction activity, and the overall health and integrity of the cap and invest program;
- * Criteria for the selection of offset protocols, including risks and benefits, and how the definition of adverse impacts relates to the rule definition of "environmental harm";
- * What decisions will be needed to facilitate linkage with other pollution reduction programs, as well as the predicted or possible downstream consequences of those decisions.

Honoring Tribal Sovereignty

The program rule must explicitly incorporate Ecology's existing obligation to proactively engage and consult with federally recognized tribes. In particular, it is critical that offset protocols are guided by feedback from Tribal Nations, designed to facilitate the participation of tribal nations, and support tribal sovereignty.

Pollution Allowances

Ecology's responsibility to provide oversight and review of the allocation of allowances for Emission Intensive Trade-Exposed polluters should be strengthened and clarified to provide guidance and establish reporting requirements for consumer-owned utilities on the use of the value of no-cost allowances. Ecology should engage with the Utilities and Transportation Commission on

its regulation of investor-owned utilities' use of the value of no-cost allowances.

Offsets

Offsets are inherently flawed, allowing polluters to continue polluting. It is important that the program rule establishes a process to evaluate the impact of offsets and the effectiveness of the offsets program over time.

The rule should include language allowing for adaptation and adoption of new protocols moving forward, post-rulemaking, including:

- * Updating existing offset protocols based on lessons learned in California, such as evolving California's urban forestry offset protocol (which has never been feasible to use).

- * Adopting new offset protocols to harness other natural climate solutions in Washington state, e.g., blue carbon and agriculture.

Ecology's proposed adoption of California's forestry protocol is premature. CARB - US Forestry should not be adopted as-is.

The CARB - US Forestry protocol doesn't adequately account for leakage (logging occurring elsewhere because of avoided logging prompted by a protocol offset).

A 2019 study found that 82% of the credits issued under CARB - US Forestry likely do not represent true emissions reductions due to the protocol's use of lenient leakage accounting methods.

The CARB - US Forestry protocol also lacks genuine additionality, that is, credits are being issued for forests that were not actually going to be harvested, or that the carbon sequestration benefits of specific offsets were overestimated. A 2021 study showed that ecological and statistical flaws in California's offsets program create incentives to generate credits that do not reflect real climate benefits.

Washington State should not adopt the CARB - US Forestry protocol until these shortcomings are addressed.

Industrial forestry

Logging is the number one source of emissions in OR and is estimated to be third in WA. Emissions have been underestimated by up to 55% in Oregon and 25% in Washington, and as of 2019, these emissions were not reported in state GHG reporting guidelines.

Yet CARB - US Forestry favors industrial logging practices. Such practices produce significant carbon emissions, from soil compaction as well as machinery operations. It takes decades for clear-cut forests to return to a natural state that adequately supports diverse habitats. And so-called plantation "working forests" do not provide anything close to natural habitat or biodiversity.

To be most effective, any forestry offset protocol used by Washington State should reward the avoidance of industrial forest practices, incentivize longer harvest rotations, and prioritize the

protection of old growth and mature forests.

Washington should also avoid decoupling carbon storage from overall forest health. In New Zealand, high carbon prices have incentivized dense plantations of non-native, short-lived trees such as radiata pine that offer poor habitat and can displace native forests.

Wood products

CARB - US Forestry credits the storage of carbon in wood products, even though they store far less carbon than forests. However, some estimates have only 15% of a log's carbon ending up in a wood product; the rest becomes carbon emissions. Crediting carbon storage in wood products encourages increased harvests and shorter rotations, both of which are counterproductive to Washington's climate goals.

As 200 forest and climate scientists told Congress in June 2020: "We find no scientific evidence to support increased logging to store more carbon in wood products, such as dimensional lumber or cross-laminated timber (CLT) for tall buildings, as a natural climate solution."

Aggregation

2.88 million acres of forestland in Washington State were owned by small forest landowners in 2019. Any forestry offset protocol implemented under the Climate Commitment Act should provide mechanisms to enable landowners who would otherwise face barriers to participation in carbon offsets to aggregate their offset offerings particularly Tribal Nations and small forest landowners in order to maximize benefits to local communities, tribes, and landowners of all sizes.

California's buffer pools

Forest offset protocols call for "buffer pools" to attempt to account for the fact that some of the carbon presumed stored in the forest will end up being released by wildfire. Recent analysis has indicated that the number of trees that California has set aside may be inadequate compared to the risks the state faces from increased mega-fires. California's "buffer pool" must be evaluated before Washington State links with California's cap and trade program.

Thank you.

Kevin Gallagher