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Sent via email to: CCAETEIndustries@ecy.wa.gov

July 24, 2026

Re: **Report and recommendations to Legislature on EITE allowance allocation for 2035-2050**

Dear Adrian,

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide input regarding the new report from Ecology on future EITE¹ allowance allocation required by recent legislation². This second report – which requires Ecology to provide specific recommendations to the legislature for the continued allocation of no-cost allowances beginning in 2035 – will be consequential to EITEs in the state.

WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Washington, Oregon, Nevada, and Arizona. WSPA's Washington members operate EITE facilities and are directly affected by changes to EITE policy.

Our central recommendation is straightforward:

WSPA, whose members operate refineries in Washington, recommends that EITE no-cost allocation be maintained at levels sufficient to protect against leakage. A faster decline risks shifting production, investment, emissions, and jobs out of Washington.

WSPA is deeply concerned that any policy which fails to maintain adequate levels of EITE no-cost allocations will add to the cost of operating refineries in Washington state, decreasing their competitiveness with domestic and international refineries not bearing similar costs. Recent refinery-closure announcements in California illustrate the potential consequences for consumers and broader fuel markets when cumulative operating and regulatory costs impair the competitiveness of in-state refining.

It is imperative that Washington develop a policy package that recognizes the significant challenges posed by industrial decarbonization, particularly because most out-of-state competitors do not face comparable carbon-cost requirements, placing Washington facilities at a competitive disadvantage. The Legislature correctly identified the importance of providing no-cost allowances to EITEs in the enabling legislation for this program, and Ecology has correctly identified that “no-cost allowance allocation remains the most viable and effective policy for mitigating leakage risk.”³

¹ In common usage, EITE often means “energy-intensive and trade-exposed.” Washington law defines this acronym as “emissions-intensive and trade-exposed.”

² Engrossed Senate Bill 6246, Chapter 70A.65 RCW, 2026 Regular Session

³ Report and recommendations to Legislature on EITE allowance allocation for 2035-2050,

The following sections of this letter build out details that provide further background to these themes and simultaneously address questions raised in the focus areas in the outline of the report.

Background

Under the framework for Washington's Cap-and-Invest (C&I) program, the Legislature established clear leakage protection for EITEs through 2034 and contemplated that the Legislature would later define the post-2034 approach. The original structure also created a default outcome under which, absent further legislative action, EITEs would continue to receive no-cost allowances based on the 2031–2034 allocation⁴, which is approximately 94% of the baseline. It is our view that this structure reflects the recognition that EITEs face unique leakage risk and should not be exposed to carbon costs in a manner that simply shifts production, employment, and emissions to jurisdictions with less stringent climate policy.

Engrossed Senate Bill 6246, enacted in 2026, changed the nature of the task now before Ecology. Rather than merely requiring Ecology to describe alternative approaches, the Legislature directed Ecology to provide recommendations regarding the schedule of allowances to be provided to EITE facilities from January 1, 2035, through January 1, 2050, and related policies to support EITE emission reductions. ESB 6246 also revised the fallback structure: if the Legislature does not adopt a schedule of allowances for 2035 through 2050, EITE facilities continue to receive allowances as provided in the years 2031 through 2034 until a schedule is adopted by the Legislature.

Finally, ESB 6246 directs Ecology to recommend a method for annual reductions in EITE allowance allocation that would ensure against leakage. The Climate Commitment Act (CCA) defines leakage as an in-state reduction in greenhouse gas emissions that is offset by a directly attributable increase in emissions outside Washington and outside linked jurisdictions. That statutory definition addresses emissions leakage; WSPA also urges Ecology to consider the displacement of production, investment, employment, and associated economic displacement that can occur in parallel.

As Ecology has noted, the current framework creates a potential long-term allowance-budget constraint if EITE production and emissions remain relatively stable while the statewide cap continues to decline. The relevant policy question, however, is not merely how to reconcile two numerical trajectories. It is whether reducing EITE allocation, in the absence of commercially available and financeable abatement options, would induce feasible emissions-reduction investments in Washington or instead cause production, investment, and employment to shift elsewhere. WSPA is concerned that the latter outcome may be more likely and therefore recommends a cautious, evidence-based approach.

Fundamentally, WSPA recommends that this issue not be framed as a mathematical or budgetary exercise. The broader challenge is how Washington can preserve industrial production and employment while incentivizing real emission reductions under one of the most stringent statutory frameworks in the world — a framework that combines a 95 % reduction in gross statewide greenhouse gas emissions by 2050 with a separate net-zero requirement. In practice, there are three parallel objectives that Ecology is trying to meet, and they must be understood as discrete elements for the policy package to be successful. These are:

⁴ RCW 70A.65.110(3)(e)(ii); RCW 70A.65.110(3)(b)(ii); ESB 6246, ch. 253, Laws of 2026, §1, amending RCW 70A.65.110(4).

Leakage protection – This is the recognition that the costs imposed on EITEs by the C&I program can result in the relocation of production to facilities elsewhere that do not face comparable carbon costs. While these costs are minimized today under the current no-cost allocation schedule, carbon-cost exposure will increase precipitously with more aggressive cap decline factors or other mechanisms that reduce no-cost allocation to EITEs.

Investment acceleration – This is the recognition that industrial decarbonization projects are capital-intensive, technically complex, and often dependent on infrastructure, permitting, utility coordination, and technologies that may not yet be commercially mature at scale. Additional mechanisms may be needed to reduce capital costs, address carbon-price uncertainty, and de-risk investments with significant technical, regulatory, and economic uncertainty.

Program integrity – This is the recognition that annual allowance budgets, no-cost allocation for all program purposes, auction supply, and cost-containment mechanisms must operate together in a manner that preserves both program operability and the environmental integrity of the cap trajectory. The framework must also account for the point at which statutory ambition, feasible compliance pathways, and acceptable economic effects may diverge.

It is important to recognize that a cap adjustment factor is primarily a budget-alignment tool; it does not mitigate leakage or finance decarbonization but would be expected to increase costs to operate EITE industries in Washington. Program operability may be preserved through cost-containment mechanisms such as price ceiling units. However, recurring reliance on those mechanisms may demonstrate that the declining allowance budget has outpaced feasible compliance pathways, requiring issuance of additional allowances to maintain program operability. Over time, that outcome raises important questions regarding the environmental integrity of the original cap trajectory.

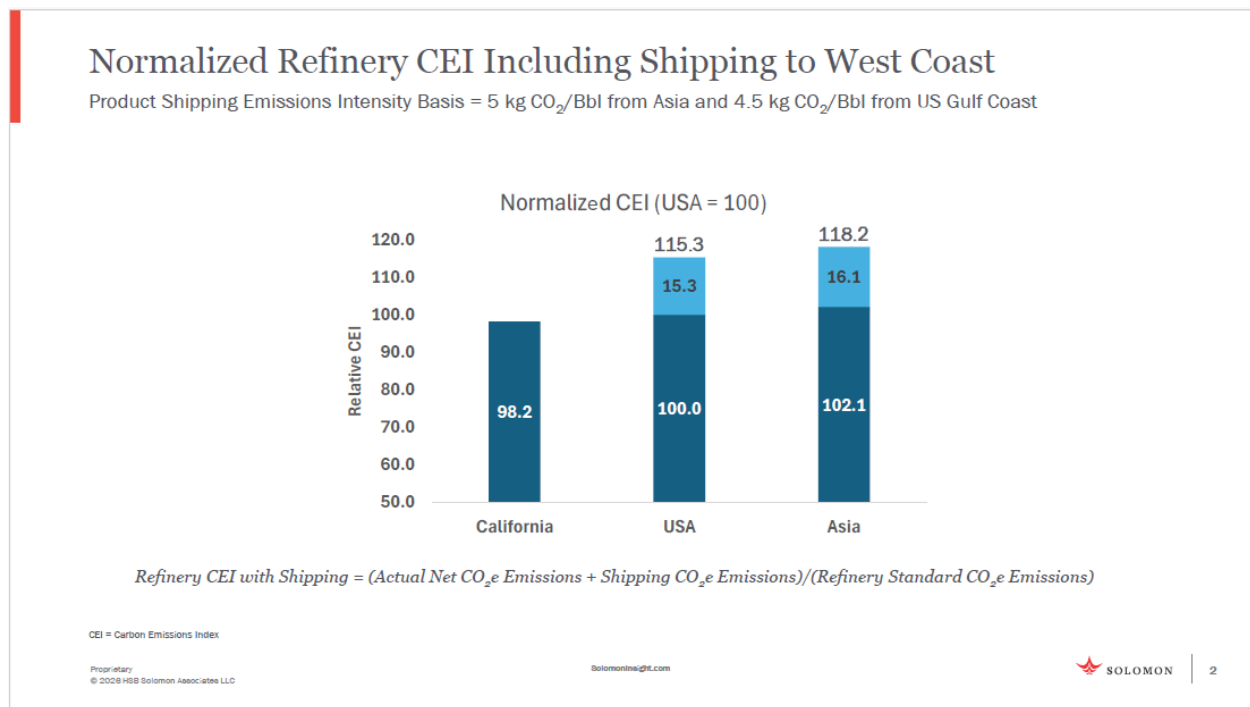
Insights from California

There are notable lessons from climate programs elsewhere that Ecology should consider in its recommendations to the Legislature. California has reduced no-cost allocation with a cap adjustment factor since the inception of the program; but – given California’s cap setting process, a relatively low allowance price historically, and modest declines in the factor through 2020 – effective carbon-cost exposure was limited. More recently, however, California has experienced refinery closures while demand for transportation fuels has remained higher than in-state refining capacity. As a result, California has become increasingly dependent on imported finished petroleum products. Although individual refinery closure decisions reflect multiple facility-specific, market, and regulatory considerations, the cumulative operating and regulatory cost environment has become an increasingly important competitive consideration for the state’s refining sector. The Solomon analysis discussed below illustrates why this issue warrants careful attention. It suggests that California refineries face among the highest production costs in the world and that continued reductions in effective no-cost allocation, absent other policy adjustments, could further erode competitiveness.

The following analyses prepared by Solomon & Associates LLC ⁵ (Solomon) illustrate the emissions and competitiveness implications of replacing California refinery production with imported fuels and of increasing effective carbon-cost exposure for California refineries.

⁵ [Solomon Associates Fuels Study](#). The Fuels Study includes information from over 300 refineries worldwide, or about 85% of the world’s refining capacity.

Figure 1: Emissions associated with producing transportation fuels within California, the USA excluding California, and Asia



As California refinery capacity declines relative to in-state demand, the state must increasingly rely on imported finished fuels to make up the difference. Figure 1 illustrates that importing these fuels likely results in an increase in global GHG emissions, due to both the fuel being produced in regions without similar environmental requirements as well as transportation emissions that result from shipment from one region to another. Where climate-policy costs cause in-state production to be replaced by higher-emitting imports, the resulting emissions shift is consistent with carbon leakage.

Figure 2: Relative costs to produce transportation fuels (Gasoline, Diesel, Jet Fuel) for refineries in various regions

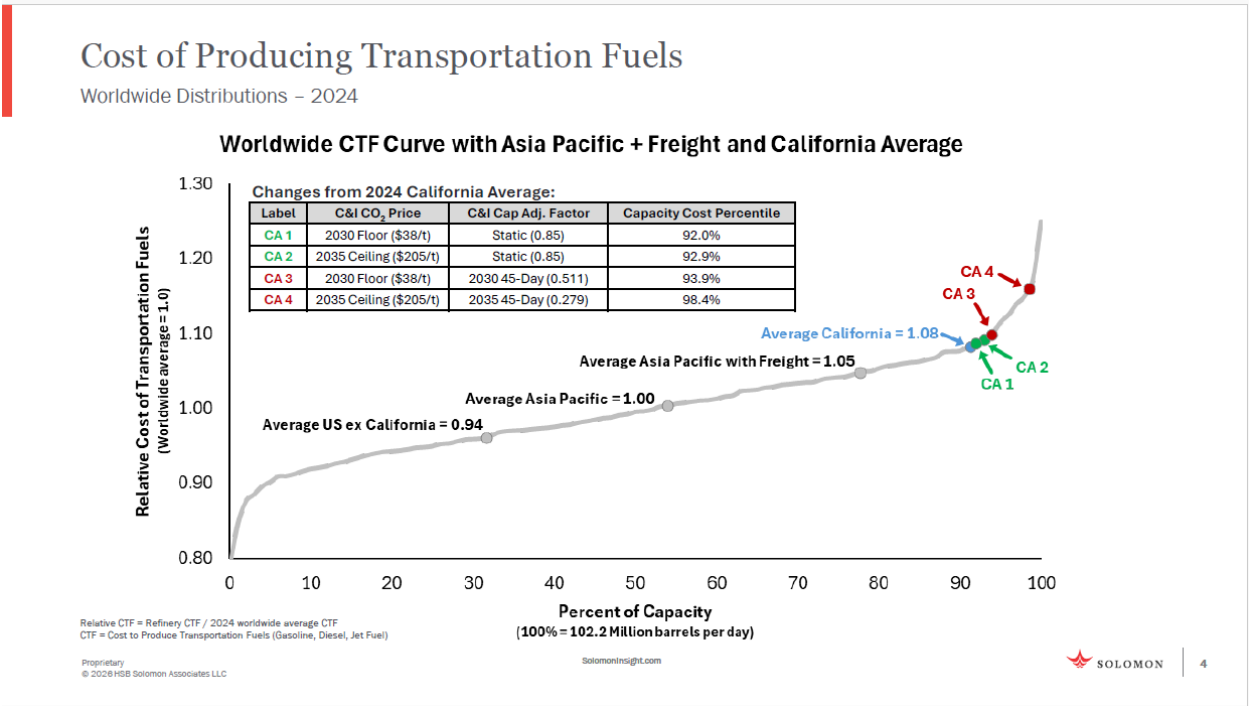


Figure 2 considers the same 3 regions that are used for comparison in Figure 1. As shown by this figure, California’s refineries are some of the most expensive to operate in the world. Competition from Asia – even after including the cost of transportation to move its fuel to California – has a cost advantage. The curve includes additional data to illustrate the various allocation scenarios under California Cap-and-Invest Program⁶. Solomon’s “CA 4” scenario estimates that, absent the California Air Resources Board’s (CARB’s) adjustment to its 2026 regulatory proposal, California refining capacity would move into the highest-cost one percent of the modeled global cost curve by 2035.

As California continues its decarbonization journey, it is also enhancing its ability to help fund industrial decarbonization through its Manufacturing Decarbonization Incentive Fund (MDIF). The program is expected to provide on the order of \$4 billion in support for industrial decarbonization, which on a per capita basis is similar to the level of support provided by the EU Innovation Fund. This reflects recognition that declining no-cost allocation and increasing carbon-cost exposure do not themselves finance the capital investments needed for industrial decarbonization.

⁶ California’s program has historically be known as the Cap-and-Trade Program, but the state rebranded it following passage of AB1207 (2025).

Insights from Other Jurisdictions

Quebec

Ecology has investigated the consignment approach that Quebec has implemented with significant interest. It is indeed a first-of-its-kind approach; consignment in programs such as California's C&I have been utilized only for no-cost allowances given to utilities, which are then consigned and sold to provide a "climate rebate" to ratepayers.

It is important to note that Quebec's approach dictates a modest level of consignment of EITE no-cost allowances with further support from other broader government funding programs – particularly ÉcoPerformance – for energy efficiency, energy conversion, fugitive-emission reduction, and large industrial GHG-reduction projects.⁷

The current level of 1.7% consignment is expected to rise, and the absolute level will only be known when calculated as per the program's rule. It is likely that the consignment level will remain well below 10% through 2030. Given this, Quebec's program should be seen as providing real, modest support for beneficial projects that combine consignment and other funding programs. It could be characterized as incremental and internally coherent.

European Union (EU)

The EU has taken the most proactive approach to industrial decarbonization. In addition to the Innovation Fund of approximately €40 billion for direct grants, there is also provision of a €100 billion industrial decarbonization bank intended to mobilize financing and other support for industrial decarbonization projects. The EU is also phasing in its Carbon Border Adjustment Mechanism (CBAM) to address carbon leakage for specified imported products as free allocation is reduced.

Finally, EU member states in many instances provide further support; a notable example is the provision of carbon contracts for difference (CCfDs) that help de-risk industrial projects by guaranteeing a stable carbon price for project evaluation and investment decision-making. This combination of complementary policies reflects the EU's recognition that preserving an industrial base while accelerating decarbonization requires more than declining no-cost allocation.

New Zealand

The approach in New Zealand arguably remains more traditional, with the primary focus remaining on no-cost allowance allocation for leakage protection and limited use of other policies to incent industrial decarbonization. The decline has been defined for the long-term: 1% from 2021-2030, 2% from 2031-2040 and 3% from 2041-2050. The schedule may be adjusted through a predefined process.

New Zealand's approach is coherent as it pairs output-based leakage protection with a transparent, gradual phase-out schedule and an adaptive governance framework. The likely lesson for Washington is not the specific phase-out rate, but the value of establishing a default trajectory with clear review and adjustment mechanisms.

Taken together, the common lesson from these jurisdictions is not that Washington should copy

⁷ It also allows co-benefit projects which may have modest emissions reductions associated with them but help support those plants to continue to improve the environmental and safety under challenging economic conditions. This policy support to those plants should not be underestimated.

any one model. The lesson is that allocation policy, consignment, complementary funding, border protections, and adjustment mechanisms must be designed as a coherent package. Among the jurisdictions discussed above, Québec may be the closest structural comparator for Washington: it is a subnational cap-and-trade jurisdiction operating within the Western Climate

Initiative architecture and layering modest consignment onto a broader EITE allocation and industrial-support framework. New Zealand is less directly comparable institutionally, but it provides a useful governance model for combining output-based leakage protection with a transparent long-term trajectory and defined adjustment process. California has reduced effective allocation while now adding a dedicated industrial decarbonization fund. The EU has paired more aggressive reductions in no-cost allocation with CBAM, significant grants, financing tools, and member-state support.

Considerations for Focus Areas

Below are summary considerations for the focus areas Ecology prepared, which broadly indicate WSPA positions. A more detailed technical assessment of Ecology's focus areas document is provided as Appendix A.

1. ***No-cost allocation to EITEs is a tool to help prevent emissions and economic leakage.*** Any reduction in allocation at the facility level increases the risk of leakage.
2. ***Effective carbon-cost exposure must be evaluated.*** The number of no-cost allowances that are allocated is important, but so is the cost of allowances that must be procured by EITEs to make up a compliance gap. Even modest exposure in a period of high allowance prices can result in significant carbon-cost exposure, particularly since many out-of-state competitors have no such costs. Washington must consider its connections in supply and trade of products produced in Washington and sold to other states and regions.
3. ***No-cost allocation reduction should be calibrated to the strength of complementary protections.*** If complementary measures are modest, no-cost allocation must remain more important.
4. ***Consignment expectations should be scaled to what it can realistically finance.*** At modest levels, consignment can create accountability and support incremental progress, but it cannot finance transformational decarbonization projects, nor should it be viewed as a replacement for the leakage-protection function of no-cost allocation.
5. ***Investment realities matter.*** For its recommendations, Ecology should consider:
 - Permitting timelines that increase project risk and practical achievability
 - Zero-carbon electricity availability and delivery, which is essential for the state's net-zero goals. Ecology should also address how the emissions-reduction value of utility-sector capital investments is attributed between the utility and the industrial customer that ultimately bears the cost.
 - Technical feasibility and commercial readiness of new technology

- Capital cost, capital planning cycles and investment risk. Risk-adjusted hurdle rates for technically and commercially uncertain industrial decarbonization projects may substantially exceed ordinary corporate investment thresholds. Ecology should therefore evaluate project economics across a range of hurdle rates, including high-risk sensitivity cases that approach or exceed 30%, rather than assuming that ordinary corporate investment thresholds apply.
6. ***Adjustment mechanisms should be objective and predictable.*** A program attempting to navigate through significant levels of political and economic uncertainty such as the C&I program will undoubtedly need to make adjustments. Ecology needs to consider and recommend clear criteria for changes resulting from impacts due to federal policy, carbon pricing in competitive (non-linked) jurisdictions, technology readiness, energy costs, permitting delays, leakage indicators and allowance market conditions.
 7. ***Policy comparisons must consider the complete package of other jurisdictions.*** Ecology can and should learn from policy frameworks in other jurisdictions but cannot cherry pick elements from a package and copy it in isolation.
 8. ***Policy needs to consider sector-specific and sector-based allocation.*** EITE sectors differ in emissions profiles, product markets, abatement options, capital cycles, trade exposure, and exposure to other Washington policies. A uniform allocation decline may be administratively simple but could produce materially different leakage and investment outcomes. Ecology should recommend the authority to evaluate sector-specific trajectories and sector-based allocation mechanisms where needed to preserve in-state production while encouraging emissions-intensity improvements.

Conclusion and Summary of Recommendations

Washington's post-2034 EITE allocation framework will shape whether the C&I Program supports real industrial decarbonization or merely increases the cost and uncertainty of EITE facilities operating in Washington. Ecology's recommendations should therefore avoid treating no-cost allocation, consignment, adjustment criteria, and complementary measures as separate policy choices. They are parts of a single policy package.

The central recommendation remains straightforward: If Washington adopts only modest complementary measures, no-cost allocation must remain the primary leakage-protection tool. If Washington wants a more aggressive allocation decline, it must also adopt a more robust industrial decarbonization strategy.

Allocation reductions should be tied to industrial reality: feasible technology, available infrastructure, financeable projects, competitive product markets, and durable complementary policies. A framework that ignores those conditions may reduce Washington's reported emissions, but only by shifting production and emissions elsewhere. That outcome would undermine both the economic and environmental purposes of the C&I Program.

WSPA encourages Ecology to recommend a framework that is transparent, adaptive, sector-aware, and grounded in the practical realities of industrial investment. Such a framework can preserve Washington's industrial base while supporting real emissions reductions and maintaining

the integrity of the C&I Program.

We look forward to continued engagement to help Ecology develop an appropriate and robust set of recommendations on this important topic. Please reach out to me if you have any questions or need more information.

Sincerely,



Jessica Spiegel

Vice President, Northwest Region



CC: Joel Creswell, Department of Ecology
CC: Tamara Jones, Department of Ecology
CC: Andy Hayes, Department of Ecology