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Submitted Electronically

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Washington Department of Ecology

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

Thank you for the opportunity to comment on the Draft Recommendations to the legislature on EITE Allowance Allocation for 2035-2050. The Nature Conservancy (TNC) has engaged on and supported the Climate Commitment Act (CCA) since before its passage and is committed to ensuring the effective implementation of the law. TNC recognizes that it is critical to both decarbonize emissions intensive, trade-exposed industries (EITEs) and mitigate leakage risk. We believe the approach that the Department of Ecology is taking, assuming the ambition to achieve these goals stays high, is on the right path. We offer the following responses to Ecology's questions:

Focus Area 1 – Method for making annual reductions to EITE allowances (developing a 'cap adjustment factor')

- *What types of data or assumptions can be used to assess the ability of EITEs to decarbonize during the 2030s and 2040s?*
 - We recommend that Ecology look beyond Washington for data on lowest emission technology available to each industry. For industries without a pathway to decarbonizing explore if the end use of their product can be achieved in a low carbon way. For example, industrial heat can often be supplied with electricity and that technology will continue to improve. For a chemical process emissions example, multiple low-carbon technologies exist to make cement, so cement producers should be expected to implement that technology and quickly transition to an allowance allocation aligned with that lower emission technology. On the other hand, most refinery decarbonization will primarily happen through transportation electrification with the exception of some renewable diesel and other biofuels. Removing the demand for a product by replacing it with a low carbon alternative that fulfills the same purpose should be considered a pathway for an EITE to decarbonize.
- *Should all industrial sectors be subject to the same annual reduction in no-cost allowances or should some sectors be treated differently? For example, facilities with a high or fixed proportion of emissions resulting from chemical processes rather than combustion.*

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- TNC is open to a sector by sector approach or a uniform cap adjustment factor as long as it decreases EITE allocation to bring EITE no-cost allocation down to its proportional share of the cap. However, we recommend that if there is a uniform cap adjustment factor it be complemented with an ambitious sector-based benchmark to ensure that those sectors that can decarbonize quickly are incentivized to do so. TNC also recommends including a leakage risk factor to prioritize no-cost allowances for those industries with higher leakage risk, as mitigating leakage is the purpose of no-cost allowances.
- *What other policies are needed alongside the provision of no-cost allowances to help ensure against leakage risk?*
 - See comments on Focus Areas 3 and 4.

Focus Area 2 – Criteria and methods for making as-needed adjustments to EITE allowance allocation

- *What types of circumstances or conditions should qualify for making as-needed adjustments to EITE allowance allocation?*
 - Since the goal of no-cost allowance allocation is to mitigate leakage while incentivizing decarbonization, the improvement of best available technologies should influence no-cost allowance allocation. We recommend Ecology adjust EITE allocation as technologies to decarbonize EITEs are developed and move down the cost. This is especially true if companies are taking low-carbon approaches outside of an established carbon market, demonstrating lower leakage risk. Ecology should look beyond Washington to define best available technologies. For example, low-emissions cement is in production at industrial scale elsewhere, and that technology should be the standard that Washington's cement industry is measured against.
 - Ecology could also consider as-needed adjustments based on non-EITE infrastructure barriers that prevent an industry from decarbonizing. For instance, if acquiring new electrical equipment would require the installation of a sub-station and/or additional power that is not available from their utility, then EITEs that are working in good faith with their utility to get that electricity service should not be penalized for delays caused by the utility.

In addition, refinery allowances should be reduced in proportion to the percentage of electric vehicles on the road relative to the 2019 baseline.

- *What objective criteria and data could be used to inform these adjustments?*
 - The emissions intensity of production of the lowest carbon intensity version of a product. Insufficient utility infrastructure or power availability may also inform temporary adjustments until the power access is solved.

Focus area 3 - Requiring EITEs to invest some of the value of their no-cost allowances in decarbonization projects (implementing a consignment policy)

- *What factors should be considered when identifying the number of EITE allowances to be consigned to auction?*
 - TNC supports Ecology recommending a strong consignment policy. Consigning allowances provides a direct incentive for facilities to decarbonize in a way that no cost allowances do not. Consigned allowances become free money for the EITEs if they invest in decarbonization. Therefore, TNC recommends high consignment levels. Ecology should consider the distance between a facility's carbon intensity and the applicable best available technology, as well as whether a facility is taking active steps to decarbonize. If facilities are not actively taking steps to decarbonize they should have to consign a higher portion of their allowances.
- *What types of EITE decarbonization projects should be funded and how should they be identified? For example, eligible projects could be specified in rule or identified by EITE facilities through technical assessments that are submitted to Ecology.*
 - Ecology should specify eligible projects in rule that will advance EITEs towards zero-emissions production. The EITE facilities' technical assessments should help them identify implementation steps for those project types. Because refineries cannot decarbonize given that their products are fossil fuels, a significant percentage of the value of refineries' consigned allowances should be directed to electric vehicle rebates for Washington residents and medium and heavy duty vehicles in overburdened communities.

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- *What types of facility-specific factors need to be considered in relation to decarbonization projects? For example, project timelines, facility turnarounds, and permitting requirements.*
 - Facilities were provided with a generous runway of over a decade of no-cost allowances through 2035 to plan for and begin implementing decarbonization investments. This runway should be considered if EITEs request extended timelines for decarbonization projects.
- *What type of reporting requirements should be used to ensure that funds are being used for approved decarbonization projects and achieving emission reductions?*
 - Ecology should create a list of approved decarbonization projects and require third party verification of successful emissions reductions. Projects that reduce dependence on fossil fuel inputs should be prioritized over projects that promote efficiency without moving towards a non-emitting alternative.
- *What type of flexibility should EITEs have regarding the use of consigned funds? For example, how long should consigned funds be available, and should EITEs be required to prioritize projects with co-benefits, such as reducing air pollution?*
 - Consignment of some no-cost allowances should start as soon as possible and increase over time. The timeline for EITEs to use their consigned allowances should be connected to the decreasing cap on emissions. The longer they wait to invest consigned funds in decarbonization projects the longer Washington will have high emissions. If EITEs are not using their consigned funds within the set timeline those funds should be transferred to Washington Builds for investments in industrial decarbonization, or transportation electrification in the case of refinery allowances.

Focus area 4 – Additional state policies or strategies to support the reduction of emissions and decarbonization of EITEs (i.e. complementary measures)

- *Where is the biggest gap in Washington's policy landscape for EITEs? In which category (supply-side, demand-side, transition enablers) is policy development most needed?*
 - All three areas are reasonable approaches for policy to support EITE decarbonization. See below for specific recommendations.
- *What specific policies and strategies are likely to be most impactful for helping decarbonize EITEs in Washington? How should the state evaluate opportunities for needed complementary policies on an ongoing basis?*
 - Here is a list of policies and strategies likely to help EITEs decarbonize in Washington:

- Utility planning for industrial electrification – currently utilities are reactive to requests for more energy and are not planning for industrial electrification. Since most EITEs will need to electrify their processes to comply with the GHG cap it is critical that the electrical infrastructure be in place for that to happen. Without a requirement for utilities to plan for and build towards an electrified industrial sector there is a chicken and egg problem that will result in no fried chicken and no omelets. While utilities may have concerns around overbuilding infrastructure, the high demand for interconnection of new loads means that concerns of overbuilding are unlikely to pan out. If an EITE ultimately does not use the developed energy capacity another entity will almost certainly be able to take advantage of the extra capacity. Indeed, engagement with multiple business associations in central and eastern WA has highlighted the restrictions on growth many businesses face due to the lack of available power.
 - Increased transmission capacity, including grid upgrades, battery energy storage, and accelerating siting, permitting, and construction of transmission lines identified in WestTEC and utility IRPs.
 - Consider investing the value of consigned no-cost allowances through WA Builds to leverage the value of no-cost allowances for immediate and long-term impact.
 - Clean Product Standard – modeled after the clean fuel standard, this would create an incentive for decarbonizing EITE production with incentives specific to each given product.
 - A climate electricity tariff for industrial ratepayers structure that incentivizes GHG reducing electrification investments while protecting affordability for residential and small commercial ratepayers.
- *Which complementary measures would create the greatest synergies with the Cap-and-Invest Program?*
 - Some complementary measures could include consignment, clean product standards, utility planning for and enabling of electrification of EITEs, and investments in decarbonization innovation through Washington Builds and Department of Commerce's Clean Tech Sector Strategy to create and scale industrial decarbonization approaches in Washington.

Other Considerations:

- *How can impacts on Tribes, overburdened communities, and vulnerable populations best be considered in the design of EITE allowance allocation policies?*
 - Directing the value of refinery no-cost allowances towards electrifying medium and heavy-duty vehicles in overburdened communities could provide significant air quality and health benefits for overburdened communities while advancing Washington's GHG goals. Ecology could also use facility specific caps to reduce emissions in overburdened communities or set up a multiplier so that facilities in and near overburdened communities must provide more allowances per metric ton of carbon.

Decarbonizing EITEs is not only essential to meet the state's climate laws, it will benefit the health of Washington residents and set Washington up to be a leader and economic powerhouse as the world transitions to zero emissions industries. We appreciate Ecology's efforts to ensure that Washington leads the way.

Sincerely,

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