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RE: Comments to the Washington Department of Ecology Report to the Legislature on EITE Allowance Allocation (2035–2050)

On behalf of the Alliance of Western Energy Consumers (AWEC), we appreciate the opportunity to comment on the development of Ecology's report to the Legislature regarding recommendations for allocation of allowances to Emissions-Intensive, Trade Exposed (EITE) industries from 2035-2050 under the state's Climate Commitment Act (CCA).

AWEC appreciates Ecology's extensive engagement with stakeholders and recognizes the difficult task assigned by the Legislature during the 2026 Session through SB 6246. Based on both our participation in the 2026 legislative process and Ecology's sector meetings, AWEC believes the conclusion Ecology should make central to any recommendation is clear: the facility assessments required by SB 6246 will be the proving ground of what is possible for long-term emission reductions. Those assessments, coupled with Washington-specific analysis of emissions leakage and competitiveness, should form the foundation of future compliance pathways.

Accordingly, Ecology's December 2026 report should focus on establishing a transparent methodology for evaluating facility-specific information rather than prescribing long-term allowance trajectories before the necessary record exists. Washington's EITE sectors are extraordinarily diverse, and future policy should reflect that diversity through flexible, evidence-based compliance pathways.

As you know, AWEC represents many of Washington's largest industrial energy consumers, including facilities regulated under the CCA. AWEC has been actively engaged throughout the review and implementation of the CCA, and most recently participated directly in negotiations surrounding SB 6246 during the 2026 legislative session and participated in Ecology's sector-specific stakeholder meetings regarding future EITE allowance allocation.

That broad perspective is important. AWEC understands both the Legislature's intent in adopting SB 6246 and the practical realities described by regulated facilities during Ecology's outreach. Across industries—including facilities with very different operations and emissions profiles—a remarkably consistent message emerged: future compliance pathways cannot be developed using generalized assumptions. Rather, they must be grounded in facility-specific evidence. Ecology has been directed to recommend future compliance pathways that achieve Washington's climate objectives while preventing emissions leakage and preserving economic competitiveness, and AWEC supports this objective and appreciates Ecology's efforts to engage stakeholders.

The challenge, however, is that the information currently available is insufficient to support prescriptive recommendations regarding future allowance allocation or compliance pathways.

Ecology's report therefore presents an opportunity not simply to recommend allowance levels, but to establish the analytical framework that will guide future decisions once the information required by the Legislature becomes available.

SB 6246 Established a Process Before It Established Outcomes – SB 6246 reflects a legislative judgment that better information is needed before long-term compliance pathways are finalized. The Legislature required facility-level assessments of technically and economically feasible emissions reductions because lawmakers recognized that each EITE facility has unique operational characteristics, capital cycles, engineering constraints, and competitive markets.

AWEC encourages Ecology to reinforce that legislative framework through its recommendations to the Legislature. Rather than attempting to predict what future reductions should be, Ecology should explain how future decisions will be made once the required assessments are complete. This approach is fully consistent with the Legislature's intent and provides regulated facilities with greater certainty regarding the ongoing decision-making process.

The Facility Assessments Will Be the Proving Ground of What Is Possible – Throughout Ecology's sector meetings, facilities consistently explained that many lower-cost emission reduction opportunities have already been implemented. Remaining reductions frequently involve transformational process changes requiring substantial capital investment, emerging technologies, extended outages, or entirely new infrastructure.

The facility assessments required by SB 6246 should therefore become the primary evidence used to answer questions such as:

- What technologies are commercially deployable today?
- Which projects are technically feasible within specific industrial processes?
- What implementation timelines are realistic?
- What supporting infrastructure is required?
- What investments are economically feasible while maintaining competitiveness?

These assessments should calibrate future compliance pathways rather than simply validate assumptions developed beforehand.

<u>Technical Feasibility Requires More Than Technology Availability</u> – Ecology should distinguish between technology that exists and technology that can reasonably be deployed at a particular Washington facility. Commercial readiness, engineering integration, permitting, planned outages, supply chains, workforce availability, utility infrastructure, and more, all influence whether an emissions reduction project is realistically achievable during a compliance period.

Facilities also consistently identified electric reliability and capacity as a limiting factor. In some cases, electrification may ultimately become an appropriate compliance pathway, yet utilities have indicated that sufficient transmission or distribution capacity is not currently available. Compliance expectations should account for constraints outside a facility's control.

<u>Economic Feasibility Must Be Evaluated Through Competitiveness</u> – SB 6246 repeatedly directs Ecology to consider economic feasibility. AWEC believes that evaluation must extend beyond a project-level return-on-investment calculation.

The relevant question is whether requiring a Washington facility to invest substantial capital in compliance places it at a competitive disadvantage relative to facilities outside Washington that may invest those same dollars in lowering production costs, expanding production, or improving efficiency. Leakage occurs when production—and ultimately emissions—shift elsewhere because Washington facilities become less competitive. Preventing leakage therefore requires evaluating competitiveness alongside emissions reductions.

<u>Veto of Statewide Leakage Risk Analysis</u> – During consideration of SB 6246, the Legislature recognized that understanding emissions leakage would be important to developing future compliance pathways. While the Governor's partial veto removed the requirement for a statewide emissions leakage risk analysis, the underlying statutory objective of preventing emissions leakage remains unchanged. Ecology, therefor, should continue to evaluate the potential for emissions leakage consistent with the objectives of the Climate Commitment Act and SB 6246.

At the same time, Ecology should acknowledge the limitations of the current record. Without the benefit of a Washington-specific leakage analysis and the facility assessments required by SB 6246, Ecology currently lacks much of the information necessary to confidently evaluate how future compliance pathways may affect competitiveness and leakage across Washington's diverse EITE sectors.

Rather than attempting to substitute generalized assumptions or analyses developed for other jurisdictions, Ecology's report should identify these analytical gaps and explain how future facility assessments, competitiveness analyses, and additional information will inform future recommendations.

Avoid One-Size-Fits-All Compliance Mechanisms – Ecology's discussion materials emphasize benchmarking and cap adjustment factors. AWEC encourages caution. Washington has previously debated benchmarking approaches, and industry consistently demonstrated that standardized metrics often fail to account for differences in production processes, feedstocks, heat requirements, product mix, and capital investment cycles.

The Legislature's decision to require facility-specific assessments reflects a recognition that individualized compliance pathways are more appropriate than uniform benchmarks. If Ecology ultimately recommends a cap adjustment methodology, it should clearly explain the Washington-specific evidence supporting that recommendation and how facility assessments, technical feasibility, economic feasibility, and leakage considerations will be incorporated.

Ecology Should Build a Flexible Compliance Toolbox – No single compliance mechanism will work for every EITE sector or facility. Ecology should recommend a flexible portfolio of compliance tools, including voluntary allowance consignment where appropriate, offsets where authorized, recognition of recycled content or other measurable emissions benefits, permitting reform, improved access to reliable electricity, process-specific compliance pathways, and additional flexibility that achieves real emissions reductions while preserving competitiveness.

Mandatory allowance consignment runs counter the needed flexibility ETIE facilities have asked for. Financial assistance cannot overcome unavailable technology, inadequate infrastructure, or projects that remain economically infeasible.

AWEC’s Recommendations for Ecology's December 2026 Report – Given the lack of facility-specific data, a state-specific leakage risk assessment, and the balance Ecology must find to ensure emission reductions and avoidance of leakage are achieved, we recommend Ecology establish a from to developing future compliance pathways, including:

- Establish a transparent methodology for evaluating facility assessments before recommending long-term allowance trajectories.
- Recognize facility assessments as the foundation for future compliance pathways.
- Interpret technical feasibility to include engineering, infrastructure, permitting, and deployment realities.
- Interpret economic feasibility through the lens of maintaining competitiveness and preventing emissions leakage.

- Avoid one-size-fits-all benchmarking or cap adjustment factors unsupported by Washington-specific evidence.
- Clearly identify remaining analytical needs, including facility assessments and Washington-specific leakage analysis.
- Recommend a flexible compliance framework rather than a single compliance pathway.

In conclusion, AWEC appreciates Ecology's continued engagement and recognizes the complexity of developing recommendations before the information contemplated by SB 6246 is available. Ecology has an opportunity to produce a report that will remain valuable well beyond 2026. AWEC recognizes that Ecology has been asked to make recommendations before all of the information contemplated by SB 6246 is available. That reality should not be viewed as an invitation to replace missing information with assumptions. Rather, it provides an opportunity for Ecology to identify the analytical work that remains, acknowledge the limitations of the current record, and establish a transparent framework for evaluating future facility-specific information. Doing so will produce recommendations that are better grounded in Washington's statutory objectives of technical feasibility, economic feasibility, and preventing emissions leakage than recommendations based on information that has yet to be developed.

A transparent, evidence-based framework grounded in facility-specific assessments, technical feasibility, economic feasibility, and the prevention of emissions leakage will better serve the Legislature, regulated facilities, workers, and Washington's climate objectives than recommendations built upon assumptions that have yet to be tested. AWEC looks forward to continuing to work with Ecology and the Legislature as this process moves forward.