Phillips 66 Ferndale Refinery (Craig Bradley)

Please see attachment.

Vivek Gopal
Director, HSE Ferndale Refinery

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July 23, 2026

Mr. Adrian Young
Cap-and-Invest: Industrial Policy Lead
Climate Pollution Reduction Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Submitted electronically via electronic comment platform

Re: Phillips 66 comments on the development of Ecology's Report and Recommendations to the Legislature on EITE Allowance Allocation for 2035–2050

Dear Adrian,

Phillips 66 Company (Phillips 66) appreciates the opportunity to comment on the Department of Ecology's (Ecology) development of its forthcoming report and recommendations to the Washington Legislature on no-cost allowance allocation to Emissions-Intensive, Trade-Exposed (EITE) industries for the period 2035–2050. Phillips 66 operates a petroleum refinery in Ferndale, Washington, that is an EITE facility. Phillips 66 is also a major supplier of petroleum fuels in the State where we primarily market through the 76® brand.

Phillips 66 acknowledges Ecology's dual challenge to reduce statewide greenhouse gas (GHG) emissions through the Cap-and-Invest (C&I) Program while mitigating the risk of emissions leakage. For leakage minimization, Ecology's recommendations on post-2035 EITE allowance allocation in the planned report to the Legislature are critical, and they will have direct implications for our Washington operations. Hence, we offer the following comments on the four focus areas identified in the May 2026 notice[1] and on several cross-cutting policies and technical issues.

Phillips 66 acknowledges Ecology's finding that, absent legislative action, projected no-cost allowance allocation to EITEs would exceed annual allowance budgets in the late 2030s or early 2040s[2]. We agree that this misalignment should be addressed in a durable, predictable framework established before the 2035 transition.. In addition, considering the imminent linkage between Washington and California-Quebec C&I programs, this framework should consider and adopt policy elements from those jurisdictions to provide compliance certainty to obligated entities like Phillips 66 which operate

[1] Report and recommendations to Legislature on EITE allowance allocation for 2035-2050 (May 2026)
[2] Report to the Legislature on EITE allowance allocation 2035-2050

under multiple jurisdictions. From our perspective, Ecology should ensure that potential program amendments do not deter either the ability to link with California-Quebec or the ability to maintain effective and efficient linkage in the ensuing years. Our comments below are offered in that constructive spirit.

Focus Area 1 — Cap Adjustment Factor (CAF) or Equivalent Method

As Ecology correctly observes in the May 2026 notice[1], industrial sectors classified as EITEs face materially unique decarbonization opportunities and constraints. Phillips 66 respectfully requests that Ecology recommend to the Legislature a CAF trajectory (or equivalent method) that provides predictable, gradual annual reductions to no-cost allocation, avoids severe step-changes between allocation periods, and caps year-over-year reductions at a level consistent with realistic capital deployment cycles. Predictability is essential to enabling the very decarbonization investments that the program is intended to accelerate.

Petroleum refineries — which accounted for approximately 69% of covered EITE emissions in 2023 (January 2026 report[2], Table 4) depend on multi-year capital planning cycles, long-lead permitting, and grid capacity that is not yet in place in northwest Washington[3]. A uniform CAF applied across all EITE sectors would not reflect these realities and would risk driving leakage rather than mitigating it. Hence, Phillips 66 agrees with Ecology's proposal to study sector-differentiated CAF and urges Ecology to recommend a differentiated CAF with a shallower decline for the Refining sector. At minimum, Ecology should be able to implement sector-level and/or facility-level adjustments based on objective, published decarbonization feasibility assessments that incorporate technology readiness levels, capital cycle timing, realistic project implementation schedules inclusive of permitting lead times, and grid access. This adjustment could look like a phase-in CAF trajectory aligned with reasonable technology-deployment timelines for each sector.

To ensure the Legislature and stakeholders can meaningfully evaluate Ecology's recommendation in the report, the underlying allowance demand forecast, decarbonization feasibility assumptions, and sensitivity analyses should be released for public comment before Ecology delivers the report to the Legislature in December 2026.

Focus Area 2 — As-Needed Adjustments to EITE Allowance Allocation

Phillips 66 supports the concept of implementing as-needed adjustments to EITE allowance allocation and believes this authority is a necessary complement to any CAF. To provide the investment certainty that decarbonization capital requires, however, the authority should be supported by clearly defined guardrails. This should include specifying circumstances that would justify an upward adjustment, including but not limited to (a) quantified material changes in leakage risk, (b) unforeseen delays or advancements in decarbonization technologies, and (c) material federal trade, energy, or climate policy shifts. Phillips 66 recommends Ecology to publish objective criteria and analytical methodology in advance through a formal public process so EITEs and other stakeholders can participate in the process and plan accordingly.

Leakage-risk methodology and use of "Assistance Factors."

Phillips 66 notes that Ecology currently does not use an "Assistance Factor" concept as part of the no-cost allocation methodology set out in 70A.65 RCW[4]. During the second and third compliance periods, per WAC 173-446-220[5], an EITE facility will receive no-cost allocation equal to 97% and 94%, respectively, of its site-specific allocation baseline. California's Cap-and-Invest program, by contrast, has long applied an Assistance Factor of 1.0 to industries at high and medium leakage risk that includes petroleum refining.

If Ecology's report to the Legislature recommends importing an Assistance Factor mechanism or any comparable leakage-risk-based multiplier into the 2035–2050 Washington framework, Phillips 66 respectfully requests that the recommendation include the following process safeguards:

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[3] PNUCC Presentation: NW Regional Forecast (June 26, 2025)
[4] Chapter 70A.65 RCW:
[5] Chapter 173-446 WAC:

- Any leakage-risk assessment underlying such a mechanism should be conducted transparently, with published methodology, data sources, and sensitivity analyses, and with a formal opportunity for peer review and public comment.
- The assessment should quantitatively account for the cumulative Washington regulatory burden borne by refineries — including C&I, the Clean Fuel Standard, CETA-related electricity costs, and Buy Clean and Buy Fair Act — together with any applicable federal programs. The assessment should also consider out-of-state and international competition from jurisdictions without comparable carbon pricing.
- Any Assistance Factor or comparable multiplier adopted for petroleum refining should be calibrated to at least reflect the treatment applied to petroleum refining in comparable programs — for example, the Assistance Factor of 1.0 applied in California's Cap-and-Invest program — so long as the underlying leakage-risk and cumulative-burden conditions persist; and
- Any changes to Assistance Factor or comparable multiplier should only be adopted through a transparent public process.

Focus Area 3 — Consignment Policy

Ecology has identified consignment as a mechanism to direct value from no-cost allowance allocation toward on-site decarbonization for moderating the effect of declining CAF post-2035. Phillips 66 sees possible issues with this policy for capital-intensive refining operations, especially if consignment is mandated. No-cost allowances are provided to EITE facilities to lower compliance cost burden and these allowances need to be returned to Ecology before the compliance period surrender deadline. This means, if value of some of these allowances is directed towards on-site decarbonization through consignment, facilities are still required to comply with the C&I regulation and may have to purchase allowances (equal to those that were consigned) through auctions or secondary market to fulfill its compliance obligation.

Another issue is a mismatch in timeline between receiving funds for decarbonization projects and realization of emission reduction from those projects. Due to multi-year long turnaround cycle and limitations on access to capital, a facility may not be able to capture the GHG reduction during the year consignment funds were received and in some cases for several years after the funds were received. During this time, the facility will see increased compliance cost originating from C&I if consignment is mandated for all EITE facilities.

If Ecology chooses to finalize and implement this policy, it should be made optional so that each EITE facility can choose the best path forward – consignment or use of internal funds – for decarbonizing their operations. Doing so will better ensure the program is efficient and supports the principle of incentivizing the lowest cost solutions. In addition, Phillips 66 respectfully requests that any consignment policy:

- Return proceeds in full to the consigning facility, so consigned funds directly support the operations that generated them and remain tied to the facility bearing the corresponding compliance obligation.
- Provide project-eligibility criteria that recognize the full set of decarbonization pathways identified in Section 8 of the January 2026 report[2], including energy efficiency, electrification, low-carbon fuels and feedstocks, material substitution and efficiency, and carbon capture, utilization and storage (CCUS).
- Provide fund-availability timelines compatible with major refinery turnaround cycles (typically multiple years), and permit accrual of consigned funds across cycles.
- Include a defined "exit ramp" for facilities that cannot deploy consigned proceeds within the applicable eligibility window due to circumstances beyond their control such as permitting delay or infrastructure unavailability, to name a few. In this situation, Ecology should allow facilities to carry forward funds or use funds for other qualifying investments.

To summarize, the timing mismatch between selling allowances during consignment and realizing emission reductions years later leaves the facility carrying interim compliance cost and market-price risk. That is why optionality and multi-year fund

availability remain essential. Mandatory consignment penalizes facilities that already self-fund decarbonization from internal capital.

Focus Area 4 — Complementary Measures

Phillips 66 strongly supports Recommendation 5 in the January 2026 report[2] and echoes the EITE feedback that complementary policies — particularly accelerated permitting for decarbonization projects, dedicated decarbonization funding, and expedited grid enhancements for industrial electrification — are essential to enabling any allocation trajectory adopted post-2035. We respectfully urge Ecology to give these measures equal weight in its report to the Legislature and to recommend concrete recommendations for legislative considerations during future legislative sessions.

Other Policy and Technical Considerations

Ecology's report to the Legislature should explicitly acknowledge that a portion of refinery emissions are process-based and cannot currently be abated cost-effectively with commercially available technologies. The primary candidate technology, carbon capture, utilization, and storage (CCUS) depend on CO_2 transport infrastructure, storage sites, and Class VI-well permitting that are not yet in place in Washington. In addition, industrial-scale electrification of refinery operations is constrained in the near term by regional grid capacity[3], transmission and distribution lead times, and delivered energy cost. Refinery capital deployment is governed by multi-year turnaround cycles and long-lead permitting timelines, which constrain the pace at which even feasible pathways can be implemented. These constraints are directly relevant to designing a practical no-cost allowance allocation framework post-2035.

Concluding Remarks

Phillips 66 appreciates the opportunity to engage with Ecology in the development of this important report and recommendations for post-2035 EITE allowance allocation. Policy elements like CAF, Assistance Factor, and utilization of complementary policies have merit, while consignment of no-cost allowances framework should be carefully designed and optional a. We look forward to continuing to work constructively toward a durable and practical post-2035 framework that supports Washington's climate objectives while maintaining the competitiveness of in-state EITE facilities. If there are any questions, please contact me at sourabh.s.pansare@p66.com.

Sincerely,

7/23/2026

Vivek Gopal
Director, HSE Ferndale Refinery