

January 29, 2016

The Honorable Jay Inslee
Governor
State of Washington
P.O. Box 40002
Olympia, WA 98504-0002

Re: Dept. of Ecology Proposed Draft Clean Air Rule, Ch. 173-442 WAC

Dear Governor Inslee:

We, the undersigned, are entities that are energy-intensive and trade-exposed (EITE) and referenced as such by the Washington Department of Ecology (Ecology) under its proposed Clean Air Rule (CAR), as referenced above.

As you know, prior to the filing of the January 5, 2016 CR-102 draft rule, many of us met with your staff and Ecology staff to discuss the myriad challenges that would be faced by EITE sectors, based on the public presentations made by Ecology staff outlining the framework of the proposed rule to-date. Although we appreciate the time of your and Ecology's staff listening to our concerns, we are very disappointed with the outcome of the proposed rule and the treatment for EITE entities.

The proposed draft rule provides two specific provisions for impacted EITE sectors: (1) a three-year compliance period extension to 2020; and (2) an unworkable economic hardship "off-ramp" petition process. In addition, Ecology staff has publicly stated that they will continue to work with affected EITE sectors after final adoption (CR-103) of the rule. Please know that from a regulatory certainty perspective, waiting to amend this rule until after final rule adoption with more comprehensive EITE compliance pathways is an unacceptable outcome for affected EITE sectors.

We appreciate your leadership and recognition of the challenges faced by EITE sectors under the American Clean Energy and Security Act of 2009, as evidenced by your work with U.S. Representatives Waxman and Markey – the Inslee/Doyle amendment. We ask that you and the Department of Ecology continue your previous line of policy thinking and continue to work with affected EITE sectors prior to final rule adoption.

Being EITE, we use large amounts of energy for our individual manufacturing processes. We also compete in highly competitive global marketplaces. As such, unlike many of our competitors in other parts of the United States and around the world (who would not be subject to similar significant regulatory costs) we are not able to pass increased production costs on to consumers, which greatly impacts our competitiveness in the global marketplace.

Moreover, it's critical that the State of Washington address any future carbon emission reductions in a responsible and thoughtful way. Considering Washington's readily available access to deep water ports and our already low carbon footprint, the displacement of production from any of our facilities to other parts of the country or world would undoubtedly result in a net increase of global greenhouse gas emissions. This concept, better known as greenhouse gas emission "leakage", is something the state must avoid in policy development. Allowing global greenhouse gas emission leakage, while subsuming local production activities in Washington, will result in the exact opposite outcome than the stated objective of this rulemaking process.

Accordingly, we request that Ecology staff meet with affected EITE sectors in February of 2016 to craft substantive compliance pathways for inclusion in final rule adoption later this year. Failure to adequately address the challenges faced by EITE companies in this rule could result in these sectors looking to other jurisdictions with more favorable manufacturing regulatory policies.

We respectfully await your and the Department of Ecology's response to this request.

Sincerely,



Gary Chandler
Vice President Government Affairs
Association of WA Business



Christian M. McCabe
Executive Director
Northwest Pulp & Paper Association

Scott M. Endres
Vice President, Flat Rolled Products
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cc: Maia Bellon
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