

Susan Saul

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Dear Mr. Joshua Grice WA Dept. of Ecology, Thank you for the opportunity to comment on this critical rule that will shape implementation of our state's cap & invest program. The Climate Commitment Act is the strongest carbon pricing program in the country, and I am excited about its potential to reduce carbon, grow the economy, and invest in overburdened communities. The state legislature intentionally integrated environmental justice, tribal sovereignty, and tools to address environmental impacts into the structure of the law. I appreciate the work that the Department of Ecology has undertaken to translate this far-reaching statute and faithfully implement its directives. The program rules are important to get right so that Ecology has the clear authority to act, the responsibilities of covered entities are clear, and the people of Washington have clarity on this program. Overall, I support the general direction of the proposed rule and urge Ecology to strengthen it in the following ways:

Overburdened communities and environmental harm:

- Articulate Ecology's responsibility to ensure the cap-and-invest program avoids negative impacts to overburdened communities and describe how information will be gathered and used to fulfill that responsibility.
- Clarify Ecology's role in evaluating impacts of all Emission-Intensive Trade-Exposed facilities (EITEs) on overburdened communities, regardless of when each facility becomes a covered entity.
- Establish an explicit process to review impacts of program implementation on outcomes relative to overburdened communities, in order to inform Ecology's mandatory reporting to the legislature required by RCW 70A.65.060(5). The rule must provide information sufficient to conduct a meaningful and thorough review. This process should be separate from the "Improving Air Quality in Overburdened Communities" initiative, be inclusive of the full range of overburdened communities as defined by the law, and focus on disparities of impacts across the entire program.

Tribal Sovereignty:

- Explicitly incorporate Ecology's existing obligation to proactively engage and consult with federally recognized tribes.

Information to enable review and accountability:

- Require all covered entities to provide information about: a) their impacts to overburdened communities and to tribal lands and treaty rights; b) the chemicals and pollutants they process and/or manage; and c) if there are any violations under any permits they hold.
- Provide guidance and establish reporting requirements for consumer-owned utilities on the use of the value of no cost allowances and engage with the UTC on its regulation of investor-owned utilities' use of the value of no cost allowances.
- Best available technology: Require EITEs applying for an upward adjustment of no cost allowances to submit information on any excessive environmental impacts of the fuels, processes, and equipment used by each facility. The rule should be clear that if the facility is found to create excessive environmental impacts, upward adjustments should be denied.
- Establish requirements for Ecology to publicly share and document data being used to establish baseline information, subtotal baselines, and allocations.

Environmental Justice Council:

- Include explicit language describing how Ecology will engage with the Environmental Justice Council in the development, implementation, and evaluation of the full program.
- Track information about the environmental and health impacts of all covered entities to inform Council review.

Offsets:

- Establish a process for future modification of offset protocols, including: 1) Adaptation of existing carbon offset protocols in response to lessons learned in California and Washington. For example, updating the existing Urban Forestry Protocol, which is not currently implementable, to provide benefits in urban communities hardest hit by facilities and pollution; and 2) Creation of new protocols to harness climate mitigation potential of other ecosystems and land

uses, such as blue carbon or agriculture.- Provide mechanisms for aggregation of landowners who would otherwise face barriers to participation in carbon offsets—particularly Tribal Nations and small forest landowners— in order to maximize benefits to local communities, tribes, and land owners of all sizes.- Clarify the process for reducing offset limits in response to cumulative air pollution burden in overburdened communities, including how data will be gathered and shared.- It is critical that offset rules are guided by feedback from Tribal Nations, designed to facilitate participation of tribal nations, and support tribal sovereignty.I look forward to Ecology’s ongoing work to strengthen and finalize this rule as part of our state’s work to meet our climate goals in an equitable and just way.Thank you, Susan Saul 10102 NE 10th StVancouver, WA 98664