



# WASHINGTON CONSERVATION ACTION

December 19, 2023

Harrison Ashby  
Rulemaking Lead  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

*Re: Informal Comment for Chapter 173-446B WAC — Climate Commitment Act Funds Reporting Rulemaking*

Dear Harrison Ashby:

Thank you for the opportunity to provide initial comments on Ecology's draft rule language for Chapter 173-446B WAC.

As a statewide advocacy organization, Washington Conservation Action (formerly Washington Environmental Council) works to develop, advocate, and defend policies that ensure environmental progress and justice by centering and amplifying the voices of the most impacted communities. We have worked on carbon pricing for over a decade and are committed to supporting the successful implementation of the Climate Commitment Act. We participated actively in rulemakings for Chapter 173-446 WAC, Chapter 173-446A WAC, and Chapter 173-441 WAC; have been participating in Ecology's Improving Air Quality in Overburdened Communities process to implement 70A.65.020; and are engaged in ongoing advocacy regarding potential linkage with the California-Québec market. We appreciate the opportunity to review early draft language and offer the following recommendations.

## Overburdened Communities

### **Include requirements to track and ensure investment goals are met.**

Ensuring that a "*minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities*"<sup>1</sup> is a core element of the CCA. In order to achieve this, it will be critical to track, verify, and provide ongoing oversight of investments that seek to provide benefits to vulnerable populations in overburdened communities. It will also be necessary to establish a regulatory mechanism to track

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<sup>1</sup> RCW 70A.65.230(1)(a)



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progress towards these minimum targets — and to correct course if the targets are not on track to being met. We are increasingly concerned that there seems to be no overarching structure, within this rule or elsewhere in CCA implementation, to ensure the 35-40% target is reached.

This rule provides an important opportunity for Ecology to set explicit requirements and a clear pathway to meet the statutory goals. We strongly recommend including these requirements in the text of the rule, above and beyond simply asking recipients to report on whether an expenditure provides benefits to vulnerable populations in overburdened communities, and whether or not there are barriers to providing such benefits.

We urge Ecology to update the introductory section, 176-446B-010, of this rule to reflect the requirements established under RCW 70A.65.230(1)(a) and to similarly update reporting requirements for funds recipients under 176-446B-060.

In section 173-446B-060 (1)(h), we recommend adding, at a minimum:

- The amount and percent of each expenditure that provides direct and meaningful benefits to vulnerable populations in overburdened communities.
- Metrics used to quantify and measure direct and meaningful benefits to vulnerable populations in overburdened communities.
- Requirement to include qualitative information and feedback from impacted communities, in addition to quantitative data, including information about any unanticipated negative impacts and areas needing improvement.

### **Require equitable community engagement and input.**

We appreciate that the rule requires recipients to report on how members of vulnerable populations were involved in determining and measuring benefits of expenditures, and we urge the strengthening of this element. Specifically, we recommend that the rule (within section 173-446B-060) require recipients covered or opting-in to the HEAL Act to report on how and whether community engagement and public participation were completed in accordance with the agency's community engagement plan required by RCW 70A.02.050. For recipients not covered or opting-in to the HEAL Act, we recommend that Ecology consult with the HEAL Act Interagency Working Group to develop separate requirements.

### **Coordinate with HEAL Act implementation.**

Rather than conducting interconnected processes in silos, we urge Ecology to comprehensively integrate the collection of information for its annual CCA funds report with its obligations under the HEAL Act, including but not limited to the requirements identified in RCW 70A.02.050, RCW. 70A.02.060, RCW 70A.02.080, RCW 70A.02.090, and RCW 70A.02.100.





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## **Incorporate recommendations from the Environmental Justice Council throughout rule development.**

Close coordination with the Washington Environmental Justice Council will be critical to inform requirements for evaluating and reporting direct and meaningful benefits to vulnerable populations in overburdened communities. It will be imperative for Ecology to prioritize and incorporate any recommendations from the Council in this regard, and to ensure that the Council has received all information and engagement it identifies as necessary before finalizing the funds reporting rule.

## Tribal Consultation

### **Uphold existing obligations.**

Ecology must uphold its existing obligations to proactively and meaningfully consult with federally recognized Tribes. This includes, but is not limited to, information to be gathered about spending that is formally supported by a Tribal resolution. The CCA directs that *“a minimum of not less than 10 percent of total investments that are used for programs, activities, or projects formally supported by a resolution of an Indian tribe.”*<sup>2</sup> The processes to ensure this target is met must be developed in consultation with Tribes. Respecting tribal sovereignty and treaty rights must be foundational to this rulemaking and across all processes to implement the CCA.

## Greenhouse gas emissions impacts and co-benefits

### **Evaluate greenhouse gas emissions reductions and increases.**

We recommend all instances of the phrase “verifiable reductions in greenhouse gas emissions or other long-term emissions impacts” be changed to “verifiable *net* reduction in greenhouse gas emissions or *increase in emissions*.” Similarly, we recommend revising the questions within Section 173-446B-060(1)(k) to encompass net reductions or increases in emissions.

### **Report on co-benefits.**

In section 173-446B-060(1), we also recommend adding the following criteria, which are applicable to both projects that reduce emissions as well as those that do not:

- Did this expenditure produce any verifiable environmental, social, and economic co-benefits (such as reduction of criteria pollutants, public health impacts, jobs created, cost savings, etc.)?
  - (i) If so, what benefits were provided?
  - (ii) If so, provide qualitative and/or quantitative measure(s) of benefit (e.g., number of jobs provided, total costs saved, estimated reduction of criteria air pollution, etc.)

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<sup>2</sup> RCW 70A.65.230(1)(b)



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We also recommend adding a sub-section after the current 173-446B-060 (1)(k) and 173-446B-060(2)(l) to address projects, such as those within the Natural Climate Solutions account, that do not reduce emissions. We suggest that each project that does not reduce emissions be required to provide information on qualitative and quantitative environmental, social, and economic outcomes.

## Public Website

### **Establish a public website.**

Finally, although it may be beyond the scope of the current rulemaking, we continue to strongly encourage Ecology to establish a public-facing website by the end of the 2023-2025 biennium. California's reporting webpage, <https://www.caclimateinvestments.ca.gov/>, provides a model of a comprehensive resource hub for a broad variety of stakeholders to access information in multiple formats.

Creation of a similar public-facing website for Washington, rather than solely a single annual report to the legislature, will be critical to enabling access to resources by Tribes, government agencies, individuals, businesses, organizations and others. It will also enable public transparency and independent assessment of the impacts of program investments. Finally, a comprehensive website will help ensure that the tangible benefits of the Climate Commitment Act are being communicated clearly and effectively to all stakeholders. We urge Ecology to immediately begin development of a website, and to seek additional funding, if needed, to establish a public facing website by the end of the 2023-2025 biennium.

Thank you for your consideration of these comments. We look forward to continued participation in this rulemaking and appreciate Ecology's ongoing work.

Sincerely,

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