

December 19th, 2023

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

Re: CCA Funds Reporting Rulemaking Public Comments

Dear Harrison Ashby,

The Nature Conservancy appreciates this opportunity to comment on the draft rule language for Chapter 173-446B WAC, Climate Commitment Act Funds Reporting. Climate Commitment Act (CCA) funds are critical to decarbonizing our state and building climate resilience. By ensuring the reporting system is effective, efficient, and transparent Ecology can support smart investments that accelerate climate action, address environmental justice, and improve climate resiliency for communities across the state.

Data Transparency:

Transparency means presenting funds reporting in a way that can be easily understood, while also making the data accessible to the public in a useful way. The Nature Conservancy urges Ecology to consider ways to be transparent with the public, both in content and format of the funds reporting. Rather than a sole focus on the reports to the legislature and reporting requirements for recipients and sub-recipients, we recommend adding a section to the proposed rules detailing Ecology's commitments to making the report and data public, which should include the following:

- Ecology should follow the lead of California Air Resource Board (CARB) reports from their cap and invest law for their use of graphs, graphics, images, and case studies of successful projects that communicate the impact of investments on communities.
- Information should include how investments have benefited overburdened communities and vulnerable populations and what investments were supported by tribal resolution.
- Data should be presented in multiple formats, including maps of where investments are occurring, and which investments benefit overburdened communities and vulnerable populations.
- Ecology should make the CCA Funds data in your report publicly available online in a searchable, filterable, downloadable format.

Furthermore, the data and report should be updated at least twice per year: once when recipients report on their funding and once after legislative session to include new appropriations. As soon as Ecology publishes the tool it should include retrospective data on CCA appropriations since the initiation of the CCA accounts. Then the initial recipient data should also include reporting on these past appropriations. This data is critical to determine whether the investments are meeting the legal requirements for 35% minimum with a target of 40% in overburdened communities and vulnerable populations and 10% on tribal lands or supported by resolution. The data also is needed by the public in order to advocate for the best possible investments in keeping with the CCA.

Tracking Investments in Overburdened Communities and on Tribal Lands and Incorporating the Environmental Justice Council

The proposed rule does not seem to offer any guidance to agencies, recipients, or sub-recipients on how to estimate or track investments in overburdened communities or on tribal lands. We encourage Ecology to work with the Environmental Justice Council and the HEAL Inter-Agency Workgroup to incorporate by reference the efforts these bodies have been undertaking to both identify and create consistent methodologies and process for identifying overburdened communities. Further, restating the requirement that investments counting towards the 10% on tribal lands being identified through tribal council resolution is an important inclusion as well.

RCW 70A.65.040 details the duties of the Environmental Justice Council in overseeing implementation of the CCA and making recommendations to the Governor and the Legislature. A key component of these duties is evaluating “the level of funding provided to assist vulnerable populations, low-income individuals, and impacted workers and the funding of projects and activities located within or benefiting overburdened communities.” A critical precursor for the EJ Council to meet its obligations is Ecology providing information to the Council with enough lead time to inform recommendations to the Governor and Legislature prior to the Governor making budget decisions in November of each year and before the legislative session. We urge Ecology to release updated information in September/early October to allow the EJ Council to evaluate the effectiveness of grant programs and make informed recommendation to the Governor and the legislature.

Reporting on Natural Climate Solutions and Resiliency:

RCW.70A.65.300 and Draft Chapter 173-446B WAC refer to the need and intent to track “verifiable reductions in greenhouse gas emissions *or other long-term impacts to emissions*” (emphasis added). In order to avoid confusion, we recommend the draft regulations include greenhouse gas sequestration or storage, particularly in natural and working landscapes, as an example of “other long-term impacts to emissions”. It is the intent of this program and specifically an intent of the Natural Climate Solutions Account to increase carbon pollution sequestration and storage as part of the state’s net zero emissions commitment, in addition to

reducing or avoiding emissions. While existing CARB methodologies are available and under development to verify sequestration impacts, it is valuable to be explicit rulemaking guidance for recipients to avoid any potential for confusion.

Additionally, we note the inclusion in the draft rule of requirements for certain recipients to report a range of additional public benefits not identified in RCW 70A.65.300 or Sec. 302(13) of the recent Operating Budget. We strongly support the inclusion of a requirement to report any available data related to the quantity and quality of jobs, apprenticeships, and/or internships created, as this is consistent with the overall intent of the Climate Commitment Act.

Similarly, then, the Nature Conservancy recommends that Ecology also require recipients of funding from relevant accounts or expenditure types to submit information on a range of public benefits including climate resilience benefits of CCA investments. Per RCW 70A.65.005, increasing the climate resilience of communities, natural resource lands, and ecosystems is a critical and stated intent of the CCA and its investments. For example, heat pumps and urban forestry provide communities resilience through heat and smoke while reducing emissions and sequestering carbon, while riparian and floodplain restoration protect farms, homes, and fisheries while also sequestering carbon. To understand the impact of the CCA and make impactful investments the public and legislators need to know the resilience benefits flowing from CCA investments.

There are many ways resilience could be quantified, including who benefits from increased resilience, how much air pollution impacts are mitigated, flood or wildfire risk reduction, acres of forest, floodplain, or salmon habitat restored, etc. Just as with other aspects of investments, it is critical that community and Tribal investment benefits present in the CCA extend beyond a strict adherence to carbon mitigation. We recommend consolidating to as few resilience metrics as possible for easy comparison without losing their meaning. This may include criteria pollution reduction, reduced risk from floods or fire and broader economic development benefits. Ecology may look to the [Washington Climate Resilience Strategy](#) (currently being updated), OFM's "[Prioritizing Actions and Investments for Climate Resiliency in Washington](#)", the UW Climate Impacts Group, or other resources for accessible metrics and categories.

Finally, we are concerned with the inclusion of "climate resiliency projects" in the list of expenditures not required to report on verifiable GHG reductions, avoidance, and sequestration requires some reconsideration or modification. We urge Ecology to require reporting, and subsequently report upon, carbon sequestered and stored in natural resources and working landscapes as an additional benefit of nominally climate resilience projects funded by the Natural Climate Solutions Account established under RCW 70A.65.270. Important GHG emission impacts will and are occurring from climate resilience projects employing natural climate solutions, such as protection or enhancement of riparian areas. We recommend measuring the GHG emissions impacts of climate resilience projects funded via the Natural Climate Solutions

Account when they include activities that sequester carbon or avoid emissions, and referring recipients to carbon accounting calculators from CARB or elsewhere that already exist. This information will be valuable for future decision-making.

Reporting Investment Impacts:

It is critical that CCA Funds Reporting capture the impacts of investments across the full scope of their benefits and timeline of their impact. Ecology should track and report on the non-GHG impacts of all investments, including climate resilience through air quality and improvements in environmental health disparities, jobs and economic benefits, and avoided costs. Given air quality and environmental health disparities are central to both the CCA and community concerns with the law, it is critical that Ecology show what impacts CCA investments are having on air quality and health in overburdened communities.

Given the facts that projects often take multiple years or budget cycles to implement, and the GHG impacts may continue for decades after that, a well-informed report will capture data from projects throughout their lifetime. We encourage reporting from sub-recipients annually from initial implementation of an individual appropriation or contract through completion of the project or grant period, and that sub-recipients final report include an estimate of ongoing annual impacts for the required reporting elements. Or, to ease burden on agencies and sub-recipients, Ecology itself could prepare an estimate of ongoing annual impacts based on the previous reports, and include those estimates in cumulative reporting.

In 173-446B-070 we are concerned that reporting could become a barrier for the participation of small community organizations, especially greenhouse gas estimations that may be difficult and burdensome for those organizations to conduct. One step Ecology should take to mitigate this ensure that easy to use GHG calculators and tools are available for all project types. Especially when developing or identifying a methodology that doesn't come with a CARB calculator, or if a CARB calculator is not easy to use for sub-recipients, Ecology should create an easy-to-use calculator rather than placing complex GHG calculation burdens on agencies and sub-recipients that may not have the necessary capacity or expertise.

TNC also believe that Ecology should verify the GHG impacts of investments rather than only relying on recipients. The publicly available reports from Ecology should specify what GHG impacts have been verified and how. Verification should as much as possible be accurate, cost-effective, and low burden on sub-recipients.

Formal Rulemaking Process:

We urge Ecology to remove barriers to participation in future steps of this rulemaking. The way, traditionally, feedback has been incorporated or not incorporated and reported by Department of Ecology in the past has not felt responsive to the communities and too embedded in lengthy technical documents. We encourage Ecology to provide more clarity in ways feedback has been

incorporated and explicit reasoning when it has not. Further, we recommend that Ecology release as soon as possible a timeline that includes sufficient opportunities for public comments on both a draft Environmental Justice Assessment and the formal rulemaking process. An additional recommendation is that Ecology release for feedback a draft Environmental Justice Assessment prior to the formal rulemaking process as that analysis would greatly inform the public in their assessment of the impacts of the proposed rule. In preparation for formal comments Ecology should create more access through translated materials, a range of meeting times outside of normal work hours, accessible materials focused on themes and communicated in a variety of ways outside memo format, as well as strengthening a culture of listening and prioritizing responsiveness to public feedback including oral comments, especially from overburdened communities and vulnerable populations.

Thank you for considering our recommendations.

Sincerely,

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The Nature Conservancy in Washington

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