

May 8, 2024

Department of Ecology  
Climate Pollution Reduction Program  
Harrison Ashby  
PO BOX 47600  
Olympia, WA 98504-7600

SUBJECT: Chapter 173-446B WAC – Rule proposal phase CR-102 – public comments

Dear Harrison,

The WSDOT Rail, Freight, and Ports Division has the following comments and questions on the proposed rule for Chapter 173-446B WAC – Climate Commitment Act Funds Reporting. We reviewed the proposed rule with respect to our new port electrification efforts consisting of line-item budget items as well as a competitive grant program; our questions are therefore intended to solicit additional guidance for the administration of the port electrification projects.

- The new section for WAC 173-446B-040 notes that some expenditures are not required to report emissions reductions, such as planning and research. So far, we have been tailoring our grant program to favor construction/implementation projects over planning projects, under the assumption that all expenditures require reporting on actual emissions reductions. Would it be more in keeping with the intent of the CCA legislation to give equal weight to planning projects and construction projects?
- Many projects will experience a delay in environmental benefits between the time the funding is allocated and the time the project is constructed/implemented. When a project is still under construction and environmental benefits are anticipated but not yet realized, what are the reporting requirements for that annual cycle?
- The CCA requires a minimum of 35% of spending to provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities. We would like to add a caveat that grant programs cannot guarantee that at least 35% of the funding will go to projects that meet this criterion. It is highly dependent on which entities apply for grant funding and where they are geographically located. We would like to submit this caveat for the legislature to consider and adjust expectations as may be necessary.
- The new section for WAC 173-446B-030 states that ecology will notify recipients of the deadline for data reporting by June 30<sup>th</sup> of each year. How and when must subrecipients provide this data? (For example, will ecology develop a standard reporting format?) We have made data reporting a contractual obligation with our funding recipients (i.e., public ports) and would like to know which expectations we can reliably incorporate into their agreements. The agreements are currently written to avoid assumptions about specific information that we do not yet have, with provisions stating that WSDOT will provide more specific instructions and/or amend the agreements once more is known.

- The proposed rule and the RCWs for environmental reporting do not specify a duration period for how many years in a row annual reporting is expected to continue. Therefore, we currently cannot inform our funding recipients how long they will need to report this information, nor can we set an agreement term duration to match. The environmental benefits of these projects may change from year to year, due to factors such as depreciation or diminished efficiency, down time for maintenance/repairs, changes in traffic volume (due to shifts in the supply chain or global/local economy), and other unanticipated variables. Therefore, we cannot simply estimate a projected trend in carbon reduction totals over time. We would need to require our recipients to make these calculations annually. Therefore, it is reasonable for them to want to know their overall level of effort (consecutive years) to do this work.
- Will ecology provide a calculator (similar to the tools developed by the California Air Resource Board) for agencies to use to report in a consistent way?

We appreciate the time and effort that goes into the rule development process and for the opportunity to submit questions related to our program's needs. Should you need any clarification from us regarding the above, please contact [rfpgrants@wsdot.wa.gov](mailto:rfpgrants@wsdot.wa.gov).

Sincerely,

*Rebecca Haberkorn*

Rebecca Haberkorn  
Contract Specialist (consultant), Rail, Freight, and Ports Division