



Harrison Ashby  
Department of Ecology, Rulemaking Lead  
harrison.ashby@ecy.wa.gov  
360-485-2771

June 28, 2024

**RE: Draft Rule Chapter 173-446B WAC–Climate Commitment Act Funds Reporting**

Dear Ms. Ashby,

Front and Centered appreciates the opportunity to provide public comment on the draft rules proposed for Chapter 173-446B WAC, Climate Commitment Act Funds Reporting. Front and Centered has already provided comments in the initial rule development phase and these comments continue to build on our prior feedback.

Front and Centered is a diverse and powerful coalition of communities of color-led groups across Washington State, whose missions and work come together at the intersection of equity, environmental, and climate justice. Our coalition works for a Just Transition to a future where our communities and the earth are healed and thriving, our people have dignified work, and our government values, respects, and represents us.

As part of this work, our coalition seeks governmental transparency and accountability. Of particular importance is the allocation of funds across the state—a process that reflects the government’s willingness to implement statewide policy while simultaneously demonstrating its willingness to listen to local concerns in how to shape the programs funded.

When the Washington State Legislature passed the Climate Commitment Act (ESSB 5126, 2021), it required the Department of Ecology to draft and submit an annual report to both the public and the legislature on spending from CCA-funded accounts.<sup>1</sup> However, the legislature, beyond setting a minimum reporting requirement, left to the agency’s discretion what information should and would be included in the report.

**General Feedback on Draft Regulations**

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<sup>1</sup> RCW 70A.65.300.

In this rulemaking, Ecology has proposed moving beyond the basic statutory requirements and has in fact adopted some of the recommendations made by Front and Centered in the coalition's prior written comments. For that, we applaud the agency. In particular, the coalition supports the agency's decision to permanently require the reporting baseline set by the 2023-25 Operating Budget (Chapter 475, Laws of 2023, Sec. 302(13)), which require agencies to provide information on how programs were co-designed with Overburdened Communities and tribes, as well as explain why, if a program does not provide direct and meaningful benefits to an Overburdened Community or tribe, the agency chose to pursue the program anyways. Further, the proposed rule supported the coalition's recommendations to the agency that agencies receiving funding from CCA sources should report on how Overburdened Communities and Vulnerable Populations were identified, including methodology and data sources used.

Ecology has noted that these additional (meaning, beyond the statutory baseline) reporting requirements would support "administrative efficiency, ... environmental justice accuracy, transparency, and accountability, ... [and] potential improvements in overburdened community and vulnerable population engagement and tracking."<sup>2</sup> Front and Centered concurs with this assessment.

However, Ecology also requires all of these reporting standards to be submitted with regard to "pass-through" funding as well.<sup>3</sup> While Front and Centered appreciates that Ecology intends for this data to be used to further the objectives stated above, Front and Centered is concerned that agencies that administer the "pass-through" funding will require the recipients of the funding to provide the data, which would increase the administrative burden for community based organizations (many of whom do not have capacity to employ full-time grant writers) seeking to apply to receive the funding. For that reason, Front and Centered recommends that Ecology work closely with agencies distributing funds to ensure that if there is to be any reporting required by the distributing agency from the recipients of the funds, that the reporting requirements be clearly stated, relatively low-effort on the recipient side, and that the distributing agency be able to provide technical assistance to recipients.

In addition to the above changes, Front and Centered re-iterates comments in the coalition's prior written statements: agencies should work to develop further metrics of analysis as CCA funds continue to be distributed. As noted in the prior written comments, Front and Centered advocates for metrics including, but not limited to:

- The amount by which environmental health disparities were reduced or increased in overburdened communities targeted by CCA-funded projects.
- The number of polluting facilities in overburdened communities.
- The quality of life ratings for overburdened communities receiving CCA funding.

Further, Front and Centered again notes that agencies should continue to explore options for reporting co-benefits achieved by expenditures, especially keeping in mind the intent of RCW 70A.65.020, which seeks to expand the scope of the CCA's efforts to include additional

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<sup>2</sup> Department of Ecology Preliminary Regulatory Analyses: Chapter 173-446B WAC 37.

<sup>3</sup> Proposed WAC 173-446B-050(2), (3).

reductions in emissions, such as criteria air pollutants. Also, Ecology ties its process for identifying and approving greenhouse gas emissions reduction calculations methods and tools to those of the California Air Resource Board<sup>4</sup>, which has methodologies for calculating co-benefits across a wide breadth of subjects.<sup>5</sup>

Finally, to reiterate prior comments, Front and Centered urges Ecology to clearly lay out in rulemaking that the website and reported data will be updated twice a year, ideally on March 30th and September 30th. Currently, the rules leave it open to Ecology to determine when agencies must submit information and only indicates that Ecology will notify agencies receiving CCA funds of the “manner and date by which [the agencies] must submit their data for the upcoming year” by July 30th.<sup>6</sup> The underlying statute, RCW 70A.65.300(5), requires Ecology to submit its report to the legislature no later than September 30th. The statute also leaves open the option to update the information reported multiple times a year “as appropriate.”<sup>7</sup> Front and Centered believes that it is appropriate to have a report issued pre-legislative session (to guide the public and legislature attention to programs that have succeeded, as well as those which may need more attention) and post-session (to provide a singular accounting of which kinds of programs were funded and what their stated goals are). The current phrasing of the proposed regulations is therefore, in the opinion of Front and Centered, too open ended and does not hold Ecology publicly accountable to ensuring that the report is updated more than once a year, which would be appropriate.

### **Defining “Direct and Meaningful Benefits”**

Front and Centered also wishes to provide comments on how it believes the agency should interpret the phrase “direct and meaningful benefits.” The CCA states that grants and programs funded by the CCA should:

provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities through: (a) The direct reduction of environmental burdens in overburdened communities; (b) the reduction of disproportionate, cumulative risk from environmental burdens, including those associated with climate change; (c) the support of community led project development, planning, and participation costs; or (d) meeting a community need identified by the community that is consistent with the intent of this chapter or [the Healthy Environment For All Act].<sup>8</sup>

Ecology’s proposed draft regulations do not further clarify the definition of “direct and meaningful benefits” beyond what has been provided in the underlying statute.<sup>9</sup>

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<sup>4</sup> Proposed WAC 173-446B-060.

<sup>5</sup> <https://ww2.arb.ca.gov/resources/documents/cci-methodologies>.

<sup>6</sup> Proposed WAC 173-446B-030.

<sup>7</sup> RCW 70A.65.300(4).

<sup>8</sup> RCW 70A.65.030(1).

<sup>9</sup> Proposed WAC 173-446B-020(3).

However, Front and Centered believes these definitions to be too vague to sufficiently provide guidance on “meaningful” investing. To provide further accountability and transparency, Front and Centered recommends that the agency move beyond the vague statutory language to adopt and incorporate the use of “environmental and community health indicators” (listed below) to measure whether CCA funding allocations have led to “direct and meaningful benefits.”

The statutory language does a good job of clarifying what a “direct” benefit looks like. Thus, under Front and Centered’s recommended definition, programs providing “direct benefits” are those that meet communities’ self-identified needs through self-proposed solutions. In other words, “direct benefits” are derived from programs, funds, and services that:

- Have positive environmental, social, and/or economic effects on members of Vulnerable Populations within the geographic boundaries of an Overburdened Community.
- Specifically target Vulnerable Populations within Overburdened Communities.
- Are identified in conjunction with the targeted communities.

However, the statutory definition does not sufficiently delve into what makes a benefit meaningful. As such, Ecology should clarify that a benefit should be considered “meaningful” if it achieves significant community measurable progress towards a stated objective, e.g., it advances a relevant programmatic intent. In the case of the CCA, a project, program, or grant provides a meaningful benefit when it reduces greenhouse gas emissions or improves environmental health for Vulnerable Populations within Overburdened Communities. Further, meaningful benefits are those that do not replicate or replace other pre-existing non-CCA state- or privately- funded efforts, but rather, work independently or in concert with those programs.

To determine what benefits result from CCA funds, agencies must include a description of the project and both a projection (pre-project) and assessment (during and post-project) of the project’s impacts on a publicly accessible dashboard hosted by the state Office of Financial Management. The project assessment must demonstrate the project’s estimated ability to eliminate environmental health disparities and reduce greenhouse gasses in Overburdened Communities.

To operationalize this definition of “meaningful” benefits, Front and Centered proposes the following list of “environmental and community health indicators”:

- Environmental Exposure
  - Air Quality: Reducing levels of greenhouse gasses, criteria air pollutants, and hazardous air pollutants
    - Possible metrics: criteria air pollutant levels (PM2.5, PM10, SO2, NOx, Pb, CO2, O3), Ozone concentration, Diesel exhaust PM2.5 emissions, cancer risk from air toxics excluding diesel PM, non-cancer risk from air toxics, quantity of hazardous air pollutants, toxic releases from facilities into air, proximity to heavy traffic roadways
  - Water Quality: Reduction of contamination levels of water sources, including drinking water and bodies of water

- Possible metrics: drinking water quality, marine water quality, number of fish and shellfish health advisories, wastewater discharge levels, surface water quality, groundwater quality, number of combined sewer overflows
    - Exposure to environmental pollutants: Limit proximity to sources of pollution such as industrial facilities, hazardous waste sites, and transportation corridors.
      - Possible metrics: number of railways, airports, or ports in community; housing stock with lead risk; leaded fuel use; density of or proximity to known contaminated sites and clean-up sites, progress of clean-up for contaminated sites, levels of noise pollution
    - Climate Resiliency: Increase community ability to adapt and respond to climate change-related hazards and leverage opportunity to transform communities through inclusive efforts that reinforce existing social structures and community cohesion
      - Possible metrics: energy burden by household, average excess energy burden per household, number of resiliency hubs and zones within community, number of communities able to respond to climate change-related hazards, number of residents who have access to emergency power and resources during a climate event
      - Possible metrics (state to develop databases for): people's ability to stay in their community and prevent displacement from green gentrification and hazards exacerbated by climate change, energy burden and assistance for households, preservation of culturally important sites and foods from climate impacts, resilience to climate through ecological solutions
- Community Health
  - Physical Well-being: Improving quality of life by reducing rates of chronic diseases (such as asthma or cardiovascular disease), reducing mortality (or reducing disparities in life expectancy at birth), improving maternal and child health and access to health care
    - Potential metrics: asthma rates, cancer rates, blood lead levels, rates of cardiovascular disease, prevalence of developmental problems, average birth weight, life expectancy
  - Social determinants of health
    - Potential metrics: unemployment levels; educational attainment levels; poverty levels; number of households with limited English language capabilities; housing affordability; proximity to public transit; transportation costs; proximity to food/grocery stores; proximity to social services; percentage of children eligible for free/reduced lunch; number of parks, gardens, or other green spaces within walking distance from housing areas; transit lines running to or near parks, gardens, or other green spaces; size of parks, gardens, or other green spaces
  - Workforce Training and Development: Creating green jobs, providing trainings, and supporting capacity building.

- Possible metrics: number of jobs created for vulnerable populations within overburdened communities, number of local workers, number of part-time and full-time job per project

While Front and Centered recognizes that the Department of Ecology is concerned with increased administrative costs associated with more detailed levels of reporting, the coalition believes that these costs are outweighed by the need for clear accountability and transparency when distributing CCA funds.

### **Office of Financial Management Dashboard**

Relatedly, under the 2023-25 Operating Budget (Chapter 475, Laws of 2023, Sec. 302(13)), the Office of Financial Management (OFM), must track and publish dashboards on all CCA expenditures, including reporting pertaining to grant recipients and benefits to overburdened communities. Front and Centered has provided OFM with recommendations for best practices in crafting and presenting the dashboard—in an effort to ensure that redundancy around reporting is limited, Front and Centered repeats the recommendations below so that Ecology can ensure that the information collected from agencies for the annual report aligns with the information needed for the dashboard.

The OFM dashboard should have a simple and comprehensive interface that prioritizes accessibility, including prominently displayed multilingual options, plain language for readability, high color contrast, text resizability, and visual aids to ensure comprehension at a 4th-6th grade reading level. The platform must be technologically relevant, optimized for mobile devices, and include keyboard accessibility. A holistic community education and outreach plan is essential for the successful implementation of the dashboard.

The dashboard's functionality must include:

- Mapped information that is searchable.
- Mapped information displayed as a searchable and filterable table hosted on the OFM website.
- Side-by-side or line-by-line comparison capabilities.
- Downloadable mapped information.
- Downloadable data-specific queries.

GIS-mapped web pages and layers must provide a visual representation of expenditures, enhancing accountability. These GIS layers should include:

- CCA-funded projects displayed by agency and/or agency program.
  - Each mapped item should have a consistent structure, including information such as:
    - Project lead
    - Brief project description
    - Intended spending vs. actual spending

- Whether the project serves Overburdened Communities and/or Vulnerable Populations
  - Intended benefit
  - Estimated project completion date
  - Partners
  - Link to a page with more information on each project
- CCA-funded projects displayed by the Community-Based Organization or Government Agency that received the funds.
  - CCA-funded projects displayed by benefit or impact.
  - CCA-regulated facilities.
  - Large-scale GHG emitters unregulated by CCA.
  - Department of Ecology air monitors.
  - Demographic, population, and socioeconomic factors.

In following the above recommendations, the dashboard will provide a transparent, accessible, and comprehensive view of CCA expenditures.

## Conclusion

Through developing these draft regulations, Ecology has already taken a number of key steps in providing administrative guidance to agencies seeking to track spending on monies allocated from CCA funds. However, Front and Centered urges the agency to move beyond the statutory basics to include further reporting requirements for increased transparency and accountability. The underlying statute grants the department significant authority to define what information must be reported—the department must utilize this authority to ensure that reporting is meaningful and useful.

Thank you for the opportunity to provide comments on the draft regulations proposed by the department. If there are any questions regarding the above comments, please contact Davin Diaz, Environmental Justice Program Manager, at [davin@frontandcentered.org](mailto:davin@frontandcentered.org).



Davin Diaz  
Environmental Justice Program Manager  
Front and Centered



Nico Wedekind  
Policy Counsel  
Front and Centered