

# Washington Public Ports Association

Thank you for the opportunity to comment. I appreciate it.

We have specific comments to offer and we'll submit our comments in more detail to the department in writing. As a public port districts we're a local government in the state of Washington that is involved in recruiting businesses and growing businesses within the state to create jobs. And in that role, we are often engaged in, as lead agencies, in SEPA rulemaking. Of course, we've been some of our (inaudible) involved in large projects recently, but the purpose, from our point of view of it of doing this work is forward looking for projects that may or may not be a oriented, who use large quantities of emissions, and in fact, as we are speaking projects with relatively low emissions are asked to do many of the things that we're incorporating here and our (inaudible) is to make sure that we have a standardized approach to addressing these problems. Broadly, let me just start by saying that I am surprised by some of the news in the, in the presentation today. And didn't take that the scope of this has been narrowed as much as it has been by the department without much conversation today.

In our view, the rule should broadly recognize that greenhouse gas emissions are indistinguishable by the source of emissions. All emissions contribute to climate change identically and are, in fact, identical to each other, regardless of the source.

Furthermore, the rule should establish a threshold of emissions beyond which, below which, actions direct and indirect emissions of greenhouse gases will not be significant adverse impacts.

When the total of emissions is exceeded, the rule should establish lead agency methodology they can use to evaluate whether these emissions are significant.

The rule should provide guidance to lead agencies for determining the circumstances in which it's appropriate to issue a DNS or MDNS, as a basis of the direct and indirect, on the basis of the indirect impacts of an action.

The rule should require lead agencies to consider the same scope and context the lead agency uses to quantify the inventory of indirect emissions, such as the significance of global life-cycle emissions that they're evaluated in the context of global carbon emissions and the significance of emissions that occur within Washington State are evaluated in the context of total greenhouse gas emissions that occur within the boundaries of the state.

We believe the rule should acknowledge that the existence of significant cumulative impacts caused by other sources of greenhouse gas emissions does not constitute substantial evidence that the proposed actions contribute, contribution to global emissions are cumulatively significant.

The rule should provide direction to lead agencies to evaluate market substitution or displacement effects when assessing the significance of the full impacts of an action.

The rule should provide guidance to lean agencies for addressing greenhouse gas reduction targets in chapter 70.235 for new source emissions. Targets should accommodate and encourage new

technology intended to substitute for or replace existing technologies that achieve the same production goals with fewer greenhouse gas emissions.

The rule should establish a framework for lead agencies to use a calculated inventory of direct and indirect emissions recently attributed to an action. We'll provide more details about what should be included in our written comments.

If the rule requires consideration of global lifecycle emissions in any fashion, it should also establish a threshold of direct emissions attributable to an action below which the lead agency may not consider global lifecycle emissions associated with that action.

The rule should establish a methodology by which a lead agency must identify reasonable mitigation measures when they determine conditions are necessary to mitigate greenhouse gases of an action pursuant to RCW.43.21C.060. We'll provide more detail about what should be included in this methodology in our written comments.

The rule should establish a methodology which a lead agency may address impacts of climate change on a proposed action through resiliency and adaptation planning, including, but not limited to site design and other measures to address sea level rise and increased risks of severe storm events and wildfire.

To support the implementation of this rule, we believe it is important for the department to develop and maintain inventories of and anticipated trends for emissions for categories of industries and activities, including transportation activities, and how inventories and trends may be used in project and non-project environmental review. Inventory should use the same scope and context for emissions as a required rule adopted to this chapter for lead agencies when quantifying inventory of indirect emissions. The Department of Ecology shall update its reports; we would like that report updated every three years.

At the, at the end of the day, for us we deal with a lot of different kinds of projects. We're aware that there are projects in folks' recent experience that have raised concerns, but (inaudible) this question being asked (inaudible) Washington Public Ports Association, it's much broader than a narrow focus on emissions, from carbon (inaudible), the same questions about threshold, (inaudible) exist for any project that would like to proceed within the state of Washington, the same uncertainties in the appeal process exist for any project that would proceed within the State of Washington. And we think it the rule should rightly address those issues as it proceeds.

Statement by Gerry O'Keefe representing the Washington Public Ports Association  
Department of Ecology Greenhouse Gas Assessment for Projects Rulemaking  
Thursday, June 25, 2020

Thank you for the opportunity to offer comments today. The rule the agency will promulgate is profoundly important and with far reaching effect. Private and public interests advancing both project and non-project actions require clear guidance to produce useful and defensible Environmental Impact Statements as required by the State Environmental Policy Act. The state's economic and environmental interests require the Department of Ecology to produce a rule that provides guidance and minimizes the risk of litigation.

On behalf of our seventy-three member ports, I offer the following comments on the scope of the rule:

- (1) Broadly, the rule should recognize that greenhouse gas emissions are indistinguishable by the source of those emissions. All emissions, regardless of the source, contribute to climate change.
- (2) The rule should establish a threshold of emissions below which an action's direct and indirect emissions of greenhouse gases will not be deemed probable, significant adverse impacts;
- (3) When this threshold is exceeded, the rule should provide a methodology to evaluate whether the action's direct and indirect emissions are probable, significant adverse impacts.
- (4) The rule should provide guidance to lead agencies for determining under what circumstances it is appropriate to issue a DNS or MDNS on the basis of the direct and indirect impacts of the action;

- (5) The rule should require lead agencies to consider the same scope and context the lead agency uses to quantify the inventory of indirect emissions, such that the significance of global life-cycle emissions are evaluated in the context of global carbon emissions and the significance of emissions that occur within Washington state are evaluated in the context of total greenhouse gas emissions that occur within the borders of the state;
- (6) The rule should acknowledge that the existence of significant cumulative impacts caused by other sources of greenhouse gas emissions does not constitute substantial evidence that the proposed action's contribution to global emissions are cumulatively significant;
- (7) The rule should provide direction to lead agencies to evaluate market substitution or displacement effects when assessing the significance of the full life cycle impacts of an action;
- (8) The rule should provide guidance to lead agencies for addressing greenhouse gas reductions targets in chapter 70.235 RCW for new source emissions. The targets should accommodate and encourage new technology intended to substitute for or replace existing technologies that achieve the same production goals with fewer greenhouse gas emissions;
- (9) The rule should establish a framework lead agencies use to calculate an inventory of direct and indirect emissions reasonably attributable to an action. Specifically:
  - (a) The framework should specify the scope and context the lead agency uses to quantify an action's indirect impacts, including whether the lead agency must

- consider global life-cycle emissions attributable to an action or only those emissions occurring within the state;
- (b) When quantifying an action's indirect impacts, the framework should authorize lead agencies to incorporate prior environmental review and other inventories that quantify emissions for categories of activities and industries that have been prepared by the department of ecology, industry groups, or other lead agencies; and,
  - (c) The framework should also authorize lead agencies to rely on adopted policies and regulations of other agencies with regulatory jurisdiction over any direct or indirect emissions of an action to predict emissions and emission trends in the inventory;
- (10) If the rule requires consideration of global life-cycle emissions in any fashion, it should also establish a threshold of direct emissions attributable to an action below which the lead agency may not consider global life-cycle emissions associated with that action;
- (11) The rule should establish a methodology by which a lead agency must identify reasonable mitigation measures when they determine conditions are necessary to mitigate emissions of greenhouse gases of an action pursuant to RCW 43.21C.060. Specifically,
- (a) The methodology should recognize reductions and measures undertaken by the applicant or other parties that mitigate direct and indirect impacts associated with the proposed action;
  - (b) The methodology should authorize the lead agency to rely on and consider reasonable mitigation measures including, but not limited to, market offsets; new technology intended to substitute for or replace existing technologies that achieve the same production goals with fewer greenhouse gas emissions; alternate fuels (particularly renewable fuels) or energy systems; best available control technologies

- (BACT); potential measures to reduce wasteful, inefficient, and unnecessary consumption of energy during construction, operation, maintenance, and removal; the potential of siting, orientation, and design to minimize energy consumption, including transportation energy; and, any other actions or measures required by adopted plans, policies, or regulations of other agencies with jurisdiction over greenhouse gas emissions that would result in a reduction of direct or indirect greenhouse gas emissions associated with the action;
- (c) The methodology should identify acceptable sources for purchase of carbon offsets as a means of mitigation; and,
- (d) The methodology might also, consistent with RCW 43.21C.060, authorize mitigation for greenhouse gas emissions only if this mitigation is reasonable and capable of being accomplished. The methodology should not require mitigation in excess of a proportional share of the state's reduction targets set forth in chapter 70.235 RCW or mitigation that eliminates completely the impact of the greenhouse gas emissions of an action in order to be considered sufficient to mitigate that impact for purposes of RCW 43.21C.060;
- (12) The rule should establish a methodology by which a lead agency may address impacts of climate change on a proposed action through resiliency and adaptation planning, including but not limited to site design and other measures to address sea level rise and increased risks of severe storm events and wildfire.
- (13) To support the implementation of this rule, it is important for the department to develop and update inventories of and anticipated trends for emissions for categories of industries and activities, including transportation activities, and how those inventories and trends may be used in project and non-project environmental review. The

inventories should use the same scope and context for emissions as is required for lead agencies when quantifying the inventory of indirect emissions. It is important that the Department of Ecology update this information on a cycle of 3 to 5 years.

Thank you again for considering these comments. We believe the State of Washington will be best served by a rule that provides comprehensive treatment of greenhouse gas emissions regardless the source. Well crafted guidance can ensure fair treatment for project proponents and ensure that all impacts are thoroughly evaluated consistent with the public interest.