



Ms. Tamara Jones
Senior Legislative Planner – Climate Pollution Reduction Program
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564-669-3713

December 20, 2023

RE: Public Comments on Cap-and-Invest Agency Request Legislation

Dear Ms. Jones,

Thank you for the opportunity to provide comment on the proposed agency request legislation on amending the Climate Commitment Act, RCW 70A.65.


Front and Centered has engaged in the development of Washington State's CCA linkage policy through some of the public participation meetings held in October, and has been following the development of the agency request legislation, as well as the agency determinations around linkage. We have been critical of efforts to link carbon markets and have articulated our rationale in prior comments to the department. In particular, we have cited our concern that the department has not done the appropriate level of analysis on the potential impacts of linkage on overburdened communities, but has instead elevated concerns raised by polluters on economic impacts to their business models. We continue to have these concerns.

Instead of engaging further on the substance of the proposed agency request legislation, Front and Centered will provide comments on the department's efforts to perform an Environmental Justice analysis on the agency request legislation in this docket, pursuant to RCW 70A.02.060.

The Healthy Environment for All (HEAL) Act requires that agencies perform an environmental assessment for any agency action deemed a "significant agency action." RCW 70A.02.060(1). A significant agency action includes agency request legislation. RCW 70A.02.010(12)(d).

An environmental justice assessment requires that an agency identify overburdened communities and vulnerable populations who are expected to be affected by the proposed agency action; identify the potential environmental and health impacts; identify if there will be

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impacts to federally reserved tribal rights and resources; summarize community input; describe how the agency can continue to engage affected parties; and describe options for the agency to reduce, mitigate, or eliminate identified probable impacts on overburdened communities and vulnerable populations. RCW 70A.02.060(4). In doing so, the agency must solicit feedback from members of overburdened communities and vulnerable populations. RCW 70A.02.060(5)(a). Finally, the agency must seek to reduce or eliminate the environmental harms caused and maximize the environmental benefits created by the proposed significant agency action. RCW 70A.02.060(6).


In this instance, the department has sought to solicit input from the general public on how they believe agency request legislation could affect overburdened communities and vulnerable populations. In their initial public engagement, the department had not yet proposed language for drafting, nor had the department even publicly issued a determination on whether linkage would be pursued. With regard to department analysis of effects of linkage, the department, as stated above, focused on economic effects and noted that effects on overburdened communities and vulnerable populations would depend on the final linkage agreement. This has the effect of making the barrier of participation for community members quite high, as community members would have to perform an analysis of potential impacts without actually knowing any meaningful details of the proposed action.

Further, the agency noted that it would place forward draft legislation before having completed an environmental justice assessment. The question, then, must be asked: how would an environmental justice assessment be able to affect the substance of the bill, if the assessment is done post-hoc? As noted above, part of the purpose of an environmental justice assessment is to help shape department decision making to reduce harms and maximize benefits to affected communities and populations. The department had not even yet done the sufficient analysis to determine effects of the proposed action on communities but went forward with proposing language anyways. This does not seem to comply with the intent of the law.

The agency must now remedy this significant oversight, first by conducting a comprehensive assessment of the effects of linkage and potential impacts on vulnerable populations and overburdened communities. Findings of this assessment must then be distributed to community members and made easily accessible and translated. Only after community members are fully informed can they meaningfully engage with the process of drafting amendments to the CCA. The department must also go beyond the practice of simply offering listening sessions and public comment periods. Instead, provide different modes of culturally-relevant engagement in community spaces to encourage participation in the drafting of the amendments.

The intent of the environmental justice assessment is to prevent agency actions from affecting harm on overburdened communities and vulnerable populations. We urge Ecology to conduct a more thorough assessment of the effects of linkage and involve members of vulnerable

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populations and overburdened communities in both the assessment and drafting of the CCA amendments.


Thank you for the opportunity to provide feedback. If you have any questions or comments, please feel free to contact me at 360-218-2794 or davin@frontandcentered.org.

Best,

A handwritten signature consisting of two stylized, mirrored shapes resembling triangles or chevrons, connected by a horizontal line.

Davin Diaz
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