



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

August 9, 2022

Dear Members of the Environmental Justice Council:

I would like to acknowledge and thank you for your July 26, 2022 letter about the Council's role and responsibilities as defined in the Climate Commitment Act (CCA) and HEAL Act, as well as your July 29, 2022 written comments to our current CCA rulemaking.

The Council's role in incorporating environmental justice into state agency activities is one I am committed to fully support through implementation. Indeed, the success of the climate policies Ecology is charged with implementing is directly tied to you and the communities you serve. As you note in your letters, the tight timelines for the initial adoption of rules under the CCA has made it difficult to accomplish the full and meaningful engagement supported by the CCA. We are grateful that you rapidly organized to invest your time and focus as a Council and as a CCA committee to share your input and comments with us. My agency is committed to working with you moving forward to ensure that we implement a process that will allow for meaningful engagement across a range of funding, implementation, evaluation, and future rulemaking decisions.

The overarching goal of the cap and invest program established by the CCA is to cut greenhouse gas emissions and simultaneously invest in transitioning to clean energy and building climate resiliency in Washington communities, especially those disproportionately affected by climate change and air quality. Section 3 of the CCA also requires that Ecology take additional steps to ensure that the law achieves its aim of reducing air pollution in overburdened communities.

I understand from your letters that the Council seeks further clarification on how we can continue to work together towards these aims, including on areas of specific interest. I thank you for the opportunity to respond to your questions. I hope this letter, as well as ongoing conversations, provide a clearer understanding of what Ecology is currently doing to achieve environmental justice and equity through our decision-making. We also look forward to receiving your input and recommendations for how we can continuously improve our processes to accomplish these critical objectives.

Environmental Justice

Principles of environmental justice are incorporated throughout our agency-wide 2021-23 and draft 2023-25 strategic plans. Shortly after the landmark HEAL Act was passed, we established an Office of Equity and Environmental Justice to ensure that we coordinate effectively with the Council and that we fully implement the requirements of HEAL.

Thus far, Ecology has adopted a draft community engagement plan to meet obligations under RCW 70A.02.050. We look forward to guidance from the Council to further strengthen and finalize the plan for implementation later this year. We also anticipate the upcoming collaboration to develop environmental justice assessments for significant agency actions initiated after July 1, 2023, as

required by RCW 70A.02.060, including recommendations regarding which actions require an assessment.

In addition, as directed in RCW 70A.65.030 of the CCA, Ecology will be reporting annually to the Council on our progress toward meeting environmental justice and environmental health goals.

Tribal Consultation

Ecology is committed to partnership and meaningful engagement with Tribal governments. We welcome government-to-government consultation at any time and are currently developing a Tribal consultation framework for the agency, as required under RCW 70A.02.100, in coordination with the interagency Tribal consultation framework workgroup. Ecology will also be actively engaged in the new consultation process for CCA-funded projects and programs, created by HB 1753 in the 2022 session.

Climate Commitment Act

The Council and Ecology have specific roles related to the cap and invest program that are authorized by the CCA.

The current CCA rulemaking is limited to establishing and implementing provisions for the emissions trading program. As required by RCW 70A.65.100(2)(a), we will be providing notice to the Council at least 60 days before each auction and a summary report of the auction within 60 days following each auction. Beginning in 2024, we will communicate auction results on an annual basis.

Under RCW 70A.65.170(3)(d), the Council has a statutory role regarding use of offset credits by a covered or opt-in entity. If we, in consultation with the Council, determine that an entity has or is likely to contribute to the cumulative air pollution burden of the community, or violates its permit, the percentage of compliance obligation that can be met using offsets may be reduced.

The Council and the state have other responsibilities under the CCA that will be refined as segments of the cap and invest program come online. For example, we must work together to evaluate the impacts of the investments funded by the program.

As you know, the CCA contains an important provision to improve air quality in overburdened communities highly impacted by air pollution. We very much appreciate the Council's recent and ongoing input into criteria that may be used to identify these communities and will continue to seek your recommendations as this work progresses over the coming months.

Your letters include a request that Ecology establish procedures to ensure that the Council receives adequate notice of implementation decisions as well as any data and information to support those decisions. The request for notice and underlying data is to ensure that the Council can provide meaningful input into those decisions. I will be meeting with the CCA Committee along with Ecology's deputy Director, Heather Bartlett, and Governor Inslee's Senior Climate Policy Advisor, Becky Kelley, during the week of August 15 to discuss options in this regard. In particular, we are interested in discussing the option of jointly developing a Memorandum of Understanding with the Council to govern process expectations moving forward, including expectations around notice to the Council before Ecology makes implementation decisions.



You have also requested that Ecology provide written explanation for the acceptance or rejection of recommendations made by the Council. It is our intent to do that through the Response to Comments that will be made part of the official rule-making record. We also anticipate that conversations with the Committee and Council will provide additional clarification as to how Ecology intends to incorporate Council recommendations.

Linkage

Regarding the potential linkage of Washington's cap and invest program with programs in other jurisdictions, the CCA directs Ecology to explore linkage, evaluate several issues and make findings through a separate process that includes public input and an environmental justice assessment.

We will begin exploring this possibility in the fall of 2022. As part of this exploratory process, we will engage with the Council, Tribes, communities, and stakeholders and conduct an environmental justice assessment. We expect to work closely with the Council throughout this process to ensure opportunities for full and timely input.

CCA Funding

Regarding anticipated expenditure of funds that become available through the cap and invest program, the state Office of Financial Management is developing a process to coordinate funding proposals to inform the development of the Governor's budget. The state Legislature will make appropriation decisions for CCA funds as part of the 2023-2025 biennial budget adoption. As required by the CCA, Ecology, along with other state agencies receiving CCA funds, will report on the use of these funds in annual reports to the appropriate committees of the legislature. I also understand that staff from OFM and the Governor's Office have begun to engage directly with the Council on funding prioritization and decisions.

I am committed to ongoing dialogue with the Council on the HEAL Act and CCA rulemaking priorities, as well as our respective roles in the continuous implementation of this legislation, including the provision to improve air quality in overburdened communities highly impacted by air pollution. It is imperative to me that Ecology be responsive to the Council and meet our statutory rulemaking obligations. I am confident that we can work together to accomplish our joint goals of an effective cap and invest program that significantly decreases greenhouse gas emissions and improves air quality in communities most impacted by climate change and air pollution. We look forward to our continued discussions.

Thank you again for writing.

Yours Truly,



Laura Watson
Director

