

## Wilson, Sam (ECY)

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**From:** Perez-Gibson, Miguel (GOV)  
**Sent:** Friday, July 22, 2016 12:10 PM  
**To:** Clifford, Denise (ECY); Wilson, Sam (ECY)  
**Cc:** Bellon, Maia (ECY); Steuerwalt, Matt (GOV); Phillips, Keith (GOV); Davis, Chris (GOV)  
**Subject:** Senator Jim Hargrove comment on Chapter 173-442 WAC, Clean Air Rule

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Denise

I spoke with Senator Hargrove today regarding the Clean Air Rule. Knowing that today is the last day for public comment, he wanted to comment on the rule and get it on the record. He did give Maia a call today. His interest and comment is :

**... that the CAR recognize the “use of wood products to reduce emissions through the “additional” use of wood products in construction and expanded wood substitution opportunities from Washington’s Forestry Communities’.”**

I told him that I would pass his comment on to Ecology via Denise (and Sam).

This concern would seem to fit within WAC 173-44-160 Activities and programs recognized as generating emission reduction units, and the related qualifying rule language for such programs.

The concept comes from 2015 ‘s HB 1314 AN ACT Relating to implementing a carbon pollution market program.....

Denise, Senator Hargrove was attending a memorial service today so he was not available for further questions, but he wanted to meet the public comment deadline. I know that Chris, Keith, and Matt are all on vacation next week, but I’m copying them so that they can have follow up discussions with the Senator.

Also, he said that there was an Ecology employee working on CAR that came from Oregon who is aware of this issue and has been contacted by the business community as well. I hope this helps- Miguel

Below is an excerpt from HB 1314 that addresses this issue:

NEW SECTION. Sec. 16.

ECONOMIC OPPORTUNITIES FOR WASHINGTON FORESTRY AND RURAL COMMUNITIES.

(1) Recognizing that Washington's uniquely abundant forests are a significant factor in the state's carbon cycle, that they sequester carbon, and that forest management can be part of the solution to solving climate change, the department shall seek opportunities to further reduce and remove carbon emissions and to support the forestry sector through the management of forest carbon

(2) The department of commerce, working with the departments of agriculture and natural resources, shall identify existing programs or develop new programs to:

- (a) Provide financial assistance to assist in creating or expanding new market opportunities for Washington forest products;
- (b) Help mitigate the impacts of the program on transporters of wood and food products due to potential increased fuel costs; and
- (c) Otherwise assist businesses in rural communities with any potential disproportionate economic impacts of the program.

(3) The department shall work with the department of natural resources in the development of offset protocols as called for in section 9 (1) and (2) of this act that consider opportunities including but not limited to:

(a) Reducing emissions through the additional use of wood products in construction and expanded wood substitution opportunities;

- (b) Incentives for forest health treatments that reduce deforestation
- (c) Programs to maintain or increase forest carbon stocks;
- (d) Improving technical understanding of sequestration;
- (e) Developing the requirements and exploring the opportunities to develop offset projects that are recognized in other external greenhouse gas emissions

trading programs;

- (f) Expanding transfer of development rights programs to reduce conversion risk; and (g) Supporting ecosystem service payment programs.

**MIGUEL PEREZ-GIBSON**

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RCW



Representative Brady Piñero Walkinshaw

Maria Bellon  
Director, WA Department of Ecology  
PO Box 47600  
Olympia, WA 98504

Dear Director Bellon:

I wish to express my thanks to this administration for having such a strong commitment to the environment. Governor Inslee's and your leadership helped ignite a long overdue conversation in the legislature about our climate future and how to secure a future for the next generation where the air is breathable and the water is drinkable. I was proud to stand with you in our legislative attempts to put a price on carbon and achieve our state's statutorily mandated reductions in greenhouse gases in the atmosphere as required by RCW 70.235.020. The community stepped up when we failed, particularly the kids who lead "Plant for the Planet" and now Ecology is in the process of rulemaking with the proposed Clean Air Rule.

Efforts to reverse climate change and achieve our statutory environmental goals must be based in science and approached through environmental justice lens. The longer we wait to act and the weaker our efforts are, the greater the consequences for society. This is particularly true for people of color, indigenous communities, children and the elderly, and those at the lowest level on the income scale.

While I am pleased to see Ecology taking positive steps to address climate change and protect our waters and lands from pollution, waste, and harmful toxins, I encourage you to be bold. I am concerned that the proposed rule does not go far enough, not only to achieve our statutory environmental goals, but also to go further in order to truly protect those most vulnerable and at-risk to the harmful effects of climate change.

You have my strong support for a science-based ruling that upholds environmental justice. To accomplish this we must stand strong against powerful forces seeking a muted rule and instead require a reduction in emissions far greater than 1.7% per year and through stronger compliance requirements.

Again, my many thanks to you for your commitment to a healthy climate future.

All my best,

A handwritten signature in black ink, appearing to read 'Brady Piñero Walkinshaw', with a long horizontal flourish extending to the right.

Brady Piñero Walkinshaw  
State Representative  
43rd Legislative District



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## Washington State Senate

**Senator Judith "Judy" Warnick**  
13th Legislative District

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June 16, 2016

Maia Bellon  
Director, Washington State Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98501

Dear Director Bellon,

Please accept these comments regarding the department's proposed rule, chapter 173-442 WAC.

The proposed rule, glossily known as the Clean Air Rule, will not produce any discernable climate improvement in Washington.<sup>1</sup> What it will do is diminish Washington's economic competitiveness by placing unreasonable requirements on major employers in the Thirteenth Legislative District and throughout the state. Despite the best intentions of its designers, the rule is bound to drive away businesses, and may even create perverse incentives to increase greenhouse gas emissions elsewhere as companies relocate to other jurisdictions that lack access to Washington's abundant emissions-free energy.

The rule has the hallmarks of unilateral decision-making and, for that reason, it will face a rough road ahead. Barely a year ago, the legislature extensively considered and rejected the cap-and-trade policy that is now embedded in the proposed rule. The department has unfortunately chosen to introduce a rule that ignores problems that were brought to light during legislative deliberation. The rule thus begins its life under suspicion that it is bad policy for Washington, that it is inconsistent with legislatively delegated authority, or both.

I foresee problems with the rule that will affect my constituents and other Eastern Washington residents. The rule will impact businesses, such as those in the food processing sector, which are "energy intensive" and "trade exposed." The same description applies to REC Silicon, a solar components company in my district that employs around 400 people. In plain terms, the rule is admitting that REC Silicon's operations and those of other businesses are economically threatened by the rule. Furthermore, a rule that specifically penalizes a solar components manufacturer for failing to curb greenhouse gas emissions does not make sense.

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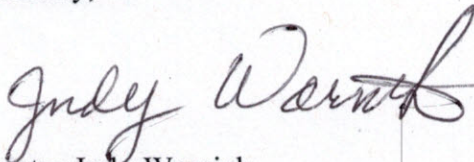
<sup>1</sup> Washington State Department of Ecology, *Preliminary Cost-Benefit and Least-Burdensome Alternative Analysis* 36 (June 2016) ("Establishing a direct 100-percent relationship between local emissions and local impacts is inherently impossible.").



Anyone who uses natural gas or gasoline—virtually everybody in my district and everywhere else in Washington—will also be affected by rising costs for those extremely inelastic goods directly attributable to the rule.<sup>2</sup> This is perhaps the most deceptive aspect of the rule.<sup>3</sup> The department presents the rule as a way to punish corporate "polluters," but, in truth, the rule penalizes anyone who uses fossil fuels because it will create artificially high prices for consumers.<sup>4</sup> This harmful approach controverts the Washington Clean Air Act by bureaucratically expanding the meaning of "sources" of emissions to reach the use of products dispersed throughout the economy, including products being used on a personal basis by individuals who are not sources of emissions that may be regulated.<sup>5</sup> The legislature has never authorized such an expansive application of the state's Clean Air Act.

Washington has been an active player in the area of emissions reduction policy without the proposed rule for years. The legislature has successfully created numerous programs to address climate concerns. But any future successes we may experience on this front will only be realized through thoughtful policies: (1) created by officeholders who are directly accountable to the people; and (2) carried out by agencies respectful of the limits of their own authority and the laws of economics. Unfortunately, the Clean Air Rule is missing those key elements.

Sincerely,



Senator Judy Warnick  
13<sup>th</sup> Legislative District

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<sup>2</sup> *Id.* at 30 (finding a high level of pass-through costs for petroleum product importers, natural gas distributors, petroleum and natural gas systems, power plants, pulp and paper, refineries and petroleum product producers, and waste facilities).

<sup>3</sup> *Id.* at 49 ("GHG emissions from mobile sources are *indirectly covered* as part of petroleum product producers' and importers' compliance obligation.") (emphasis added).

<sup>4</sup> *Id.* at 50 ("Petroleum product producers, importers, and natural gas distributors cannot reduce emissions from their products, except through reduced consumption or production.").

<sup>5</sup> RCW 70.94.030(22) ("Source' means all of the emissions units including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, *whose activities are ancillary to the production of a single product or functionally related group of products.*") (emphasis added).