



# Chapter 173-446A WAC Criteria for Emissions-Intensive, Trade-Exposed Industries Rulemaking

Air Quality Program  
September 21, 2021

**Welcome to the  
Chapter 173-446A WAC  
Criteria for Emissions-Intensive,  
Trade-Exposed Industries Rulemaking  
Stakeholder Meeting**

**We will begin at 10 a.m. PDT**

We will do sound checks 10 and 5 minutes before start.

# Sound Check

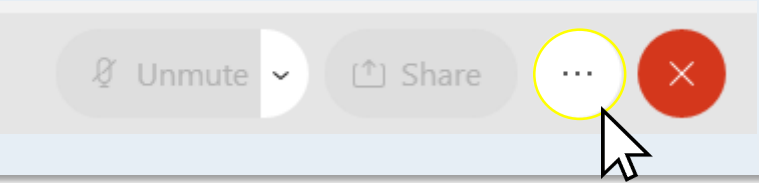
**No sound?** Connect your audio and listen for a sound check before we start.

Please note that all attendees are muted.

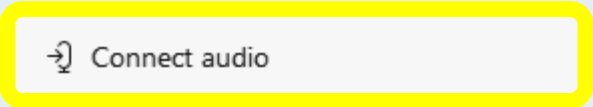
To change your audio connection.



**1** Click on the 'More Options' button at the bottom of your screen.

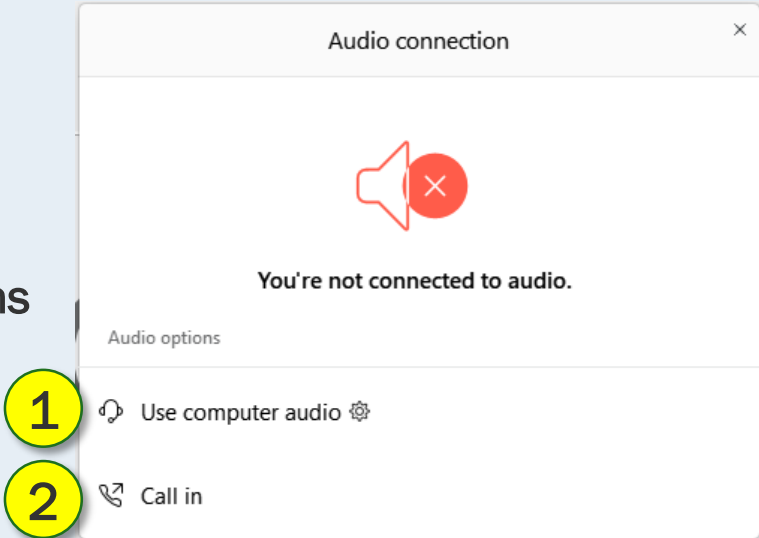


**2** Select "Connect Audio" button.



**3** Select Audio Connection

**2**  
Options

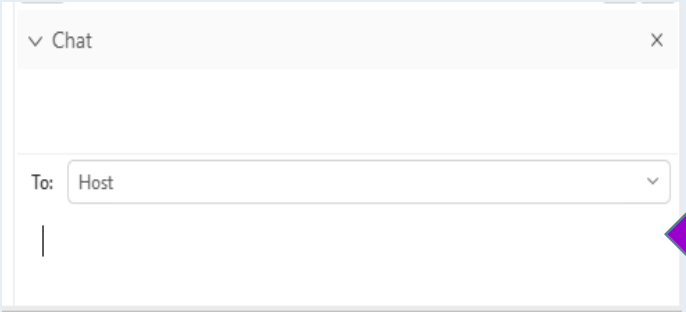
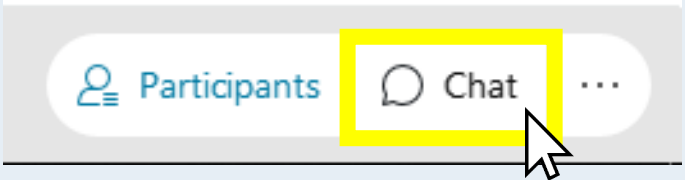


If you select "Call In" the system will provide you with a phone number and entry information.

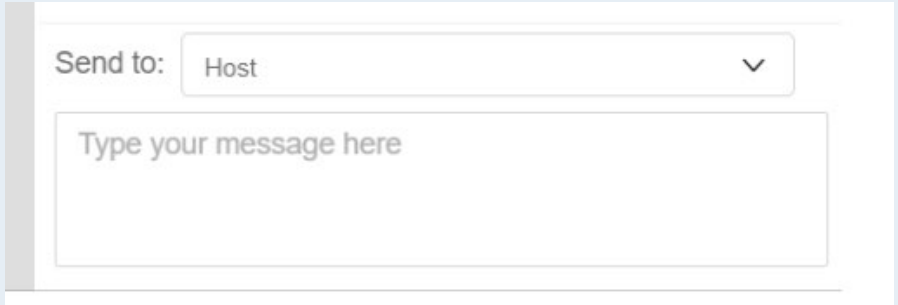
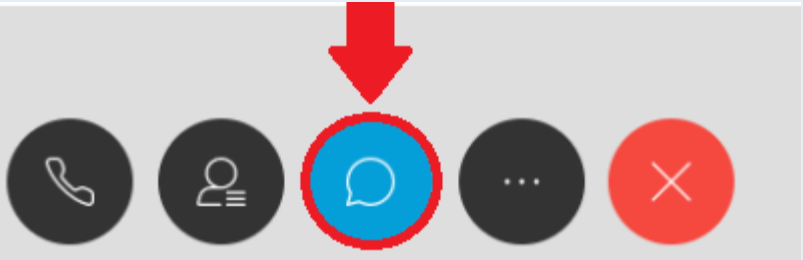
# How to use the Chat Function

## Chat with the Host for technical problems

**If you are using the WebEx application:**

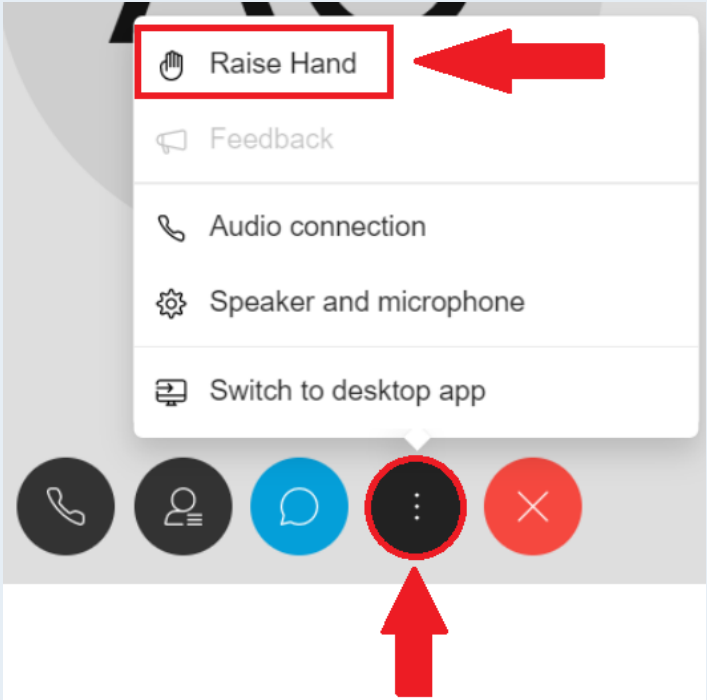


**If you are using the WebEx browser:**

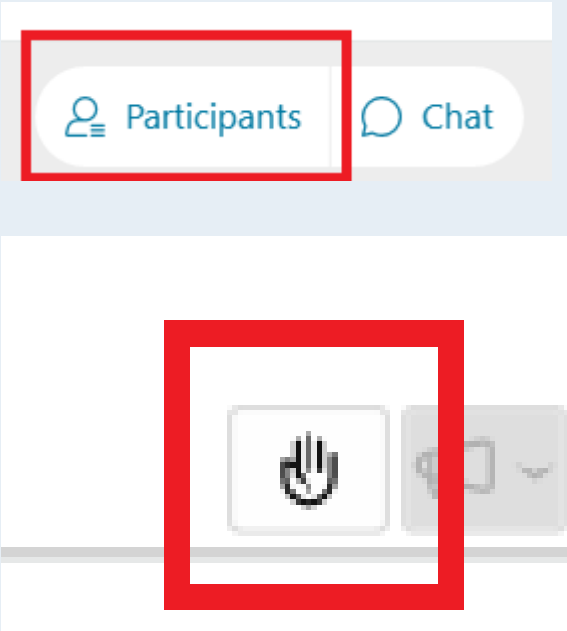


# How to use the “Raise Hand” Function

## Joined by Browser



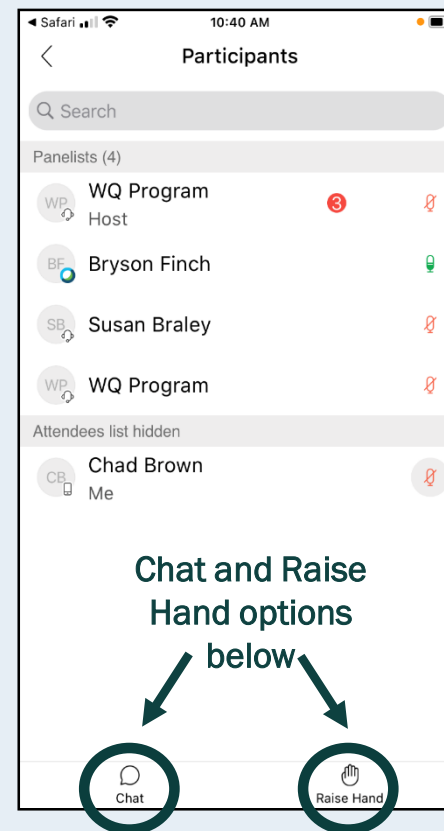
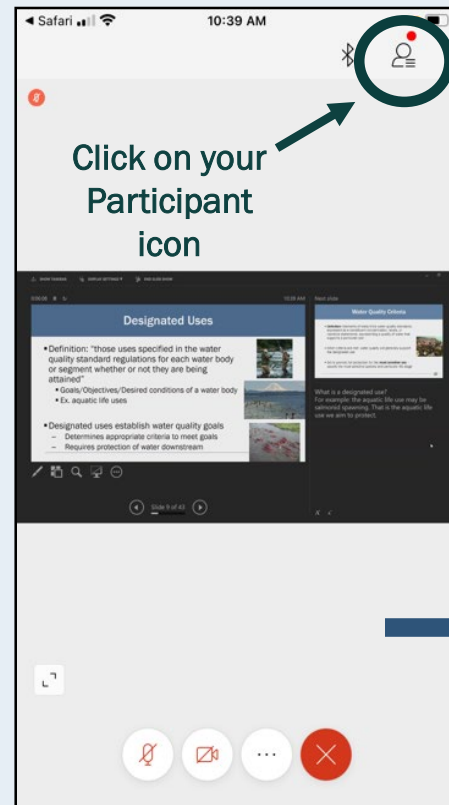
## Joined by Application



## Listening in by phone




# For those joining WebEx via phone or tablet



# How to Participate

## During today's question-and-answer period:

- **Participating using your computer or mobile app:** Use the “Raise Your Hand” button. This button is located in the lower right hand corner of the Participant list window. 
- **Participants listening in on the phone:** Press \*3 on your phone. The system will indicate you have your hand raised. The host will then unmute you at your turn and the system will announce that you are unmuted.

# Start Recording

We will begin recording at this time.





# Agenda

- 1 Brief Climate Commitment Act (CCA) context
- 2 446A rulemaking process overview
- 3 446A rule text overview
- 4 Review preliminary rule text and discussion
- 5 Wrap up

# EITE Criteria Rulemaking Contacts

Contact	Info	Topic
Katie Wolt	<a href="mailto:katie.wolt@ecy.wa.gov">katie.wolt@ecy.wa.gov</a> 360-407-6998	Rulemaking process, timeline, public comments
Emily Bruns	<a href="mailto:emily.bruns@ecy.wa.gov">emily.bruns@ecy.wa.gov</a> 360-407-6814	Rule content
Neil Caudill	<a href="mailto:neil.caudill@ecy.wa.gov">neil.caudill@ecy.wa.gov</a> 360-764-9733	Rule content
Luke Martland	<a href="mailto:luke.martland@ecy.wa.gov">luke.martland@ecy.wa.gov</a> 360-407-6523	Climate Commitment Act manager

# Climate Commitment Act (CCA) Context

- Governor Inslee signed the CCA into law on May 17, 2021.
- Caps and reduces greenhouse gas emissions from the state's largest emitting sources.
- Reductions are set on a path to meet the greenhouse gas emission limits set in state law.
- The CCA also puts environmental justice and equity at the center of climate policy.
- Funds support investments in climate resiliency, clean transportation, and addressing health disparities.

Rulemaking	Announce rule	Propose rule	Adopt rule
Greenhouse Gas Reporting Rule Updates (Chapter 173-441 WAC)	July 2021	Fall 2021	Early 2022 (1st Quarter)
Criteria for Emissions-Intensive, Trade-Exposed Industries (Chapter 173-446A WAC)	August 2021	Winter 2021	Summer 2022
Cap-and-Invest Program (Chapter 173-446 WAC)	August 2021	Spring 2022	Fall 2022

# Climate Commitment Act (CCA) Context

## 446A (rulemaking covered in today's meeting):

- Classify certain industries as EITE
- Establish process for facilities to petition Ecology to be classified as an EITE
- Establish objective criteria for both emissions intensity and trade exposure

EITE = Emissions-Intensive,  
Trade-Exposed Industries

## 446 (rulemaking covered in future meetings):

- Determine process for setting and modifying benchmark reduction schedules
- Establish methods and procedures to allocate no-cost allowances to EITE facilities
- Other EITE topics

# CCA Questions

- Today's meeting is focused on the EITE criteria rulemaking.
- Time now for broader questions about the CCA
- More information about the CCA in later meetings
- CCA webpage: <https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Climate-Commitment-Act>

# 446A Rulemaking Process Overview

1. Announcement Phase (We are here.)
  - Official announcement on intent to begin rulemaking
  - Rule development period begins (informal comment period)
2. Proposal Phase
  - Share proposed rule language and announce official public comment period
  - Formal comments collected online and during public hearing
3. Adoption Phase
  - Adopt final rule language
  - Response to comments is published
  - Rule is effective 31 days after adoption

# 446A Rulemaking Timeline

Date	Activity
September 7–30, 2021	Informal public comment period
December 2021	Propose rule
Mid-December 2021 – February 2022	Formal public comment period
Late January 2022	Public hearing
July 1, 2022	Adopt rule
August 1, 2022	Rule effective (31 days after adoption)

# Informal Comment Period

- Submit your comments here:  
<https://aq.ecology.commentinput.com/?id=ejJPr>

## Public Comment Form

1 Comment

2 Review

3 Your Copy

Commenting open: **September 07, 2021 12:00AM PT - September 30, 2021 11:59PM PT.**

## Rulemaking - Informal Comment Period for Chapter 173-446A WAC



# Rule- making Questions

- Questions about the process or timing of the EITE criteria rulemaking

# What is WAC 173-446A?

- Classifies certain industries as emissions-intensive and trade-exposed (EITE) based on North American Industry Classification System (NAICS) codes listed in the CCA statute
- Establishes the process for facilities to petition Ecology to be classified as an EITE
- Establishes objective criteria for both emissions intensity and trade exposure
- Provides EITE classification and information for CCA, but does not set CCA requirements

# Industries Classified as EITEs

- Some industries are already classified as EITE per CCA statute.
- List of EITE industries is included in the rule
- A facility reporting a NAICS code under Chapter 173-441 WAC (Reporting of Emissions of Greenhouse Gases) that is included in the list is classified as EITE.

# Facilities petitioning for EITE classification

- Facilities that report an NAICS code under Chapter 173-441 WAC (Reporting of Emissions of Greenhouse Gases) that is not on the EITE list may petition Ecology for classification as an EITE.
- Rule outlines the petition process:
  - Timeline to submit and evaluate petition
  - Information required to be submitted to Ecology
  - Criteria Ecology will use to evaluate the petition

# Petition: Timeline

- A facility must submit a petition 180 calendar days (early July) before the start of the emissions year the facility wants to be classified as EITE.
- Ecology will notify the petitioning facility within 30 days of receiving the petition if we need additional information to evaluate the petition.
- Ecology will issue a determination about the facility's EITE classification within 90 days of receiving a complete petition.
- Determination not effective before start of second compliance period: 2027

# Petition: Content

- Contact information of person submitting petition
- Facility identifying information (reported under Chapter 173-441 WAC)
- Data for past 5 years or as long as operational if less than 5 years or based on potential to emit for proposed facilities:
  - Production data
  - On-site greenhouse gas emissions
  - Facility's electricity purchases
- Closeness of facility location to overburdened communities
- Any other information requested by Ecology needed to evaluate the petition
- Signature and date

# Petition: Evaluation

Must meet following conditions:

- Manufacturing facility
- Covered under or projected to be covered under the Climate Commitment Act
- Not already classified as EITE
- Meet the criteria for emissions intensity and trade exposure

# Petition: Evaluation

Emissions intensity:

$$EI = AE + (EP \times UCO_2e)$$

EI = Average emissions intensity (MT CO<sub>2</sub>e/year)

AE = Average emissions from on-site greenhouse gas emissions data (MT CO<sub>2</sub>e/year)

EP = Average electricity purchases (kWh/year)

UCO<sub>2</sub>e = Unspecified electricity emission factor per WAC 173-444-040(4) equation 4

**Facility is emissions-intensive if EI greater than 10,000 MT CO<sub>2</sub>e/year.**



# Petition: Evaluation

Trade exposure:

$$TS = (\text{Import} + \text{Export}) / (\text{Shipment} + \text{Import})$$

TS = Trade share (%)

Import = Average value of total physical arrivals of merchandise from foreign countries for the facility's six-digit NAICS code, taken from the U.S. International Trade Commission DataWeb (USD)

Export = Average value of goods physically moved out of the U.S. to foreign countries that are grown, produced, or manufactured in the U.S. and commodities of foreign origin that have been changed in the U.S., for the facility's six-digit NAICS code, taken from the U.S. International Trade Commission DataWeb (USD)

Shipment = Average value of products at the national level sold by manufacturing establishments based on net selling values, free on board plant, after discounts and allowances are excluded, for the facility's 6-digit level NAICS code, taken from the Annual Manufacturing Survey compiled by the U.S. Census Bureau (USD)

**Facility is trade-exposed if trade share is greater than 15%.**

# Rule Overview Questions

- Questions about the EITE criteria rulemaking content
- Next: Walk-through of draft rule text for specific questions and discussion

# End Recording

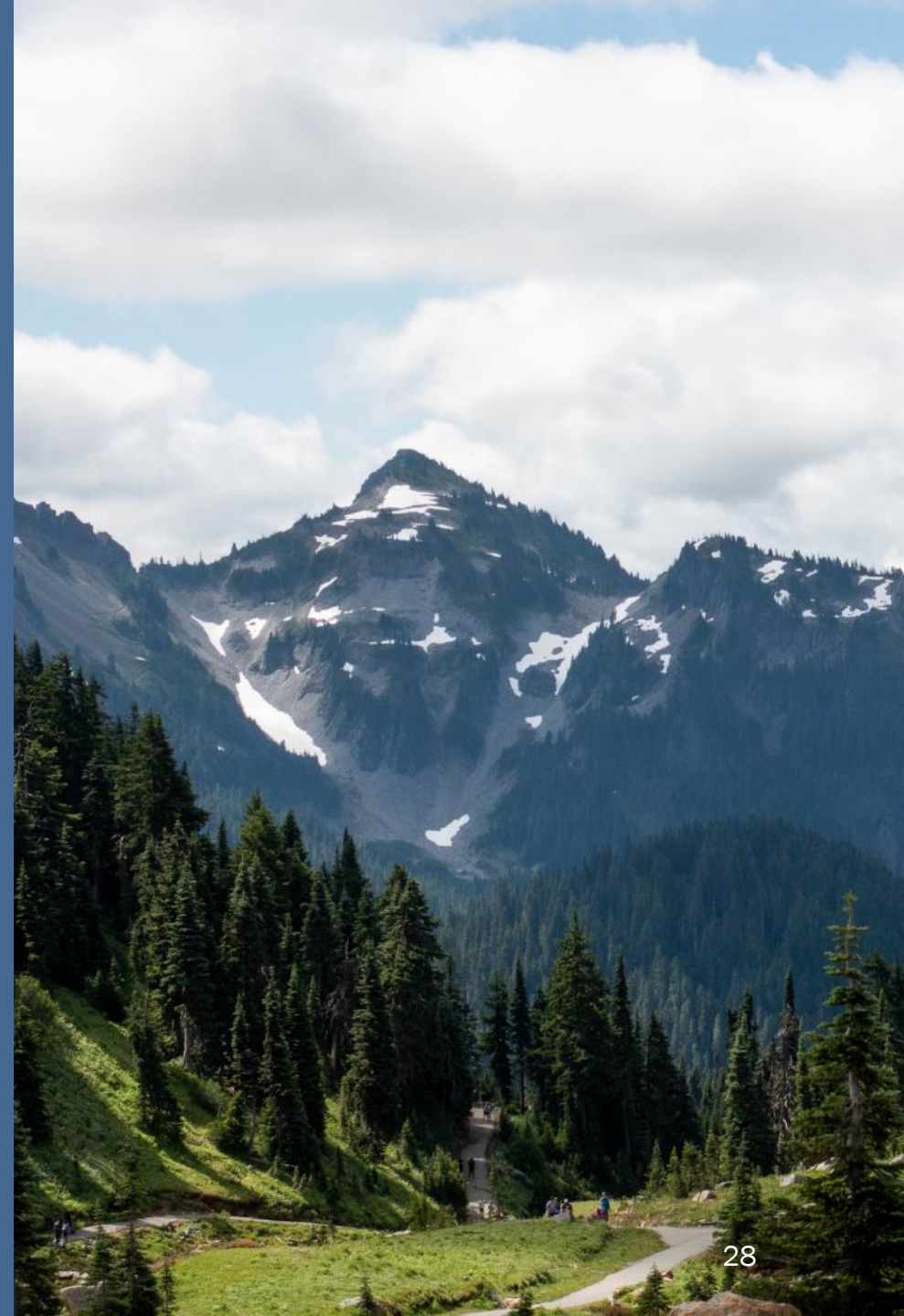
We will end recording at this time.

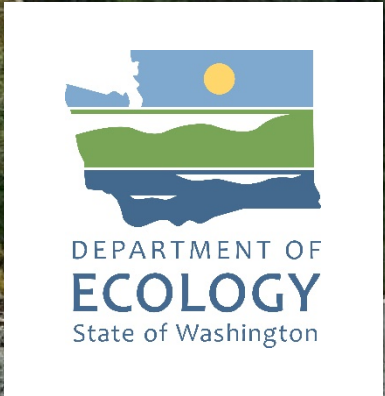




# Review Preliminary Rule Text

<https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446A>





# Thank you

Informal comments due 9/30/2021

Submit your comments here:  
<https://aq.ecology.commentinput.com/?id=ejJPr>