

# Chapter 173-446 WAC – Climate Commitment Act Program

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# Chapter 173-446 WAC – Climate Commitment Act Program Rule

## GENERAL REQUIREMENTS

### WAC 173-446-010 Purpose.

The purpose of this chapter is to implement the provisions of the GHG reduction program established in RCW 70A65.060 through 70A65.210. This program establishes a declining cap on GHG emissions from covered entities consistent with the limits established in RCW 70A.45.020, and a program to track, verify, and enforce compliance with the cap through the use of compliance instruments.

### WAC 173-446-020 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) Definitions.
  - (a) “Additional” means greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario.
  - (b) “Adverse Offset Verification Statement” means an Offset Verification Statement rendered by a verification body attesting that the verification body cannot say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement, or that it cannot attest that the Offset Project Data Report conforms to the requirements of this article or applicable Compliance Offset Protocol.
  - (c) "Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.
  - (d) "Allowance price containment reserve" means an account maintained by Ecology with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.
  - (e) "Annual allowance budget" means the total number of GHG allowances allocated for auction and distribution for one calendar year by Ecology.
  - (f) "Asset controlling supplier" means any party that owns or operates interconnected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and has been designated by Ecology and received an Ecology -published emissions factor for the wholesale electricity procured from its system. Ecology shall use a methodology consistent with the methodology used by an external GHG emissions trading program that shares the

regional electricity transmission system. Electricity from an asset controlling supplier is considered a specified source of electricity.

- (g) "Auction" means the process of selling GHG allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.
- (h) "Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.
- (i) "Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.
- (j) "Authorized Project Designee" means an entity authorized by an Offset Project Operator to act on behalf of the Offset Project Operator. The Authorized Project Designee must be a Primary Account Representative or Alternate Account Representative on the Offset Project Operator's Holding Account.
- (k) "Balancing authority" means the responsible party that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.
- (l) "Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.
- (m) "Best available technology" means a technology or technologies that will achieve the greatest reduction in GHG emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be technically feasible, commercially available, economically viable, not create excessive environmental impacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.
- (n) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.
- (o) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.

- (p) "Carbon dioxide equivalents" or CO<sub>2e</sub> is as defined in Chapter 173-441 WAC
- (q) "Carbon dioxide removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.
- (r) "Climate commitment" means the process and mechanisms to ensure a coordinated and strategic approach to advancing climate resilience and environmental justice and achieving an equitable and inclusive transition to a carbon neutral economy.
- (s) "Climate resilience" is the ongoing process of anticipating, preparing for, and adapting to changes in climate and minimizing negative impacts to our natural systems, infrastructure, and communities. For natural systems, increasing climate resilience involves restoring and increasing the health, function, and integrity of our ecosystems and improving their ability to absorb and recover from climate-affected disturbances. For communities, increasing climate resilience means enhancing their ability to understand, prevent, adapt, and recover from climate impacts to people and infrastructure.
- (t) "Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.
- (u) "Closed electric power entity" means an electric power entity that has elected to permanently stop providing or distributing electric power.
- (v) "Closed supplier" means a supplier that has elected to permanently stop supplying any of the materials that trigger coverage as a supplier under the Climate Commitment Act.
- (w) "Compliance instrument" means an allowance or offset credit issued by Ecology or by an external GHG emissions trading program to which Washington has linked its cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.
- (x) "Compliance obligation" means the requirement to submit to Ecology the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.
- (y) "Compliance Offset Protocol" means an offset protocol adopted by Ecology.

- (z) "Compliance period" means the four-year period for which the compliance obligation is calculated for covered entities.
- (aa) "Cost burden" means the impact on rates or charges to customers of electric utilities in Washington for the incremental cost of electricity service to serve load due to the compliance cost for GHG emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.
- (bb) "Covered emissions" means the emissions described in WAC 173-446-040 for which a covered entity has a compliance obligation or other requirements under this chapter.
- (cc) "Covered entity" means a person that is designated by Ecology as subject to this chapter as specified in WAC 173-446-030 or WAC 173-446-060 . Each facility, supplier, or first jurisdictional deliverer serving as an electricity importer is a separate covered entity.
- (dd) "Crediting Baseline" refers to the reduction of absolute GHG emissions below the business-as-usual scenario after the imposition of greenhouse gas emission reduction requirements or incentives.
- (ee) "Crediting Period" means the pre-determined period for which an offset project will remain eligible to be issued Ecology offset credits or registry offset credits for verified GHG emission reductions or GHG removal enhancements.
- (ff) "Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or operator maintains operating permits and retains the option to resume production if conditions become amenable.
- (gg) "Curtailed electric power entity" means an electric power entity at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.
- (hh) "Curtailed supplier" means a supplier at which the owner or operator has temporarily suspended operations but for which the owner or operator maintains any necessary permits and retains the option to resume business if conditions become amenable.
- (ii) "Direct environmental benefits in the State" refers to the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of any pollutant that could have an adverse impact on waters of the state.

- (jj) “Direct corporate association” means a group of parties that meet the requirements in WAC 173-446-105 to be a direct corporate association.
- (kk) “Direct GHG Emission Reduction” means a GHG emission reduction from applicable GHG emission sources, GHG sinks, or GHG reservoirs that are under control of the Offset Project Operator or Authorized Project Designee.
- (ll) “Direct GHG Removal Enhancement” means a GHG removal enhancement from applicable GHG emission sources, GHG sinks, or GHG reservoirs under control of the Offset Project Operator or Authorized Project Designee.
- (mm) "Electricity importer" has the same meaning as in Chapter 173-441 WAC:
- (nn) “Electric power entity” includes any of the following that supply electric power in Washington with associated emissions of greenhouse gases equal to or above the threshold established under RCW 70A.15.2200(5)(a):
  - (i) Electricity importers and exporters;
  - (ii) Retail providers, including multijurisdictional retail providers; and
  - (iii) First jurisdictional deliverers not otherwise included here.
- (oo) "Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by Ecology or its agent to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price.
- (pp) "Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale by Ecology or its agent at an auction, as determined by Ecology by rule.
- (qq) "Emissions threshold" means the GHG emission level at or above which a person has a compliance obligation.
- (rr) “Emissions year” means the calendar year in which GHG emissions occur.
- (ss) “Environmental benefits” means activities that:
  - (i) Prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts;
  - (ii) Prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm; or



- (iii) Meet a community need formally identified to a covered agency by an overburdened community or vulnerable population that is consistent with the intent of chapter 70A.02 RCW.
- (tt) “Environmental harm” means the individual or cumulative environmental health impacts and risks to communities caused by historic, current, or projected:
  - (i) Exposure to pollution, conventional or toxic pollutants, environmental hazards, or other contamination in the air, water, and land;
  - (ii) Adverse environmental effects, including exposure to contamination, hazardous substances, or pollution that increase the risk of adverse environmental health outcomes or create vulnerabilities to the impacts of climate change;
  - (iii) Loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods; or
  - (iv) Health and economic impacts from climate change.
- (uu) “Environmental impacts” means environmental benefits or environmental harms, or the combination of environmental benefits and harms, resulting or expected to result from a proposed action.
- (vv) "External GHG emissions trading program" means a government program, other than Washington's program created in this chapter, that restricts GHG emissions from sources outside of Washington and that allows emissions trading.
- (ww) "Facility" has the same meaning as in Chapter 173-441 WAC.
- (xx) "First jurisdictional deliverer" has the same meaning as in Chapter 173-441 WAC.
- (yy) “Forest Buffer Account” means a holding account for Ecology offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a Compliance Offset Protocol.
- (zz) “Forest Owner” means the owner of any interest in the real (as opposed to personal) property involved in a forest offset project, excluding government agency third party beneficiaries of conservation easements. Generally, a Forest Owner is the owner in fee of the real property involved in a forest offset project. In some cases, one entity may be the owner in fee while another entity may have an interest in the trees or the timber on the property, in which case all entities or individuals with interest in the real property are collectively considered the Forest Owners, however, a single Forest Owner must be identified as the Offset Project Operator.

- (aaa) "General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.
- (bbb) "Greenhouse gas" or GHG has the same meaning as in WAC 173-441-040.
- (ccc) "Greenhouse Gas Emission Reduction" or "GHG Emission Reduction" or "Greenhouse Gas Reduction" or "GHG Reduction" means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.
- (ddd) "Greenhouse Gas Emissions Source" or "GHG Emissions Source" means, in the context of offset credits, any type of emitting activity that releases greenhouse gases into the atmosphere.
- (eee) "Greenhouse Gas Removal" or "GHG Removal" means the calculated total mass of a GHG removed from the atmosphere over a specified period of time.
- (fff) "Greenhouse Gas Removal Enhancement" or "GHG Removal Enhancement" means a calculated increase in GHG removals relative to a project baseline.
- (ggg) "Greenhouse Gas Reservoir" or "GHG Reservoir" means a physical unit or component of the biosphere, geosphere, or hydrosphere with the capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.
- (hhh) "Greenhouse Gas Sink" or "GHG Sink" means a physical unit or process that removes a GHG from the atmosphere.
- (iii) "Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.
- (jjj) "Imported electricity" has the same meaning as in Chapter 173-441 WAC.
- (kkk) "Indirect corporate association" means a group of parties that meet the requirements in WAC 173-446-105 to be an indirect corporate association.
- (lll) "Initial Crediting Period" means the crediting period that begins with the first day of the first reporting period which receives a Positive Offset or Qualified Positive Offset Verification Statement and has that Offset Verification Statement approved by Ecology.
- (mmm) "Intentional Reversal" means any reversal, except as provided below, which is caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary, or caused by approved growth models overestimating carbon stocks. A

reversal caused by an intentional back burn set by, or at the request of, a local, state, or federal fire protection agency for the purpose of protecting forestlands from an advancing wildfire that began on another property through no negligence, gross negligence, or willful misconduct of the forest owner is not considered an intentional reversal but, rather, an unintentional reversal. Receiving Adverse Offset Verification Statements on two consecutive offset verifications after the end of the final crediting period will be considered an intentional reversal.

- (nnn) "Lead Verifier" means ...
- (ooo) "Lead Verifier Independent Reviewer" or "Independent Reviewer" means ...
- (ppp) "Leakage" means a reduction in emissions of GHGs within the state that is offset by a directly attributable increase in GHG emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.
- (qqq) "Limits" means the GHG emissions reductions required by RCW 70A.45.020.
- (rrr) "Linkage" means a bilateral or multilateral decision under a linkage agreement between GHG market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate activities to facilitate operation of a joint market.
- (sss) "Linkage agreement" means a nonbinding agreement that connects two or more GHG market programs and articulates a mutual understanding of how the participating jurisdictions will work together to facilitate a connected GHG market.
- (ttt) "Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.
- (uuu) "Multijurisdictional consumer-owned utility" has the same meaning as in Chapter 173-441 WAC.
- (vvv) "Multijurisdictional electric company" has the same meaning as in Chapter 173-441 WAC
- (www) "NAICS" has the same meaning as in Chapter 173-441 WAC.
- (xxx) "NERC e-tag" has the same meaning as in Chapter 173-441 WAC.
- (yyy) "Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

- (zzz) “Offset Material Misstatement” means a discrepancy, omission, misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to believe that an Offset Project Data Report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements greater than 5 percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the Offset Project Data Report is not an offset material misstatement.
- (aaaa) "Offset project" means a project that reduces or removes GHG that are not covered emissions under this chapter.
- (bbbb) “Offset Project Boundary” is defined by and includes all GHG emission sources, GHG sinks or GHG reservoirs that are affected by an offset project and under control of the Offset Project Operator or Authorized Project Designee. GHG emissions sources, GHG sinks or GHG reservoirs not under control of the Offset Project Operator or Authorized Project Designee are not included in the offset project boundary.
- (cccc) “Offset Project Data Report” means the report prepared by an Offset Project Operator or Authorized Project Designee each Reporting Period that provides the information, documentation, and attestations required by this article or a Compliance Offset Protocol. An unattested report is not a valid Offset Project Data Report, and therefore will not satisfy any deadlines regarding submittal of an Offset Project Data Report.
- (dddd) “Offset Project Listing” or “Listing” means the information, documentation and attestations required by this chapter or a Compliance Offset Protocol that an Offset Project Operator or Authorized Project Designee has submitted to Ecology or an Offset Project Registry, that has been reviewed for completeness by Ecology and/or the Offset Project Registry and publicly listed by Ecology or the Offset Project Registry for an initial or renewed crediting period. An Offset Project Listing must include the attestations required by this article in order to be considered complete by Ecology or the Offset Project Registry.
- (eeee) “Offset Project Operator” means the entity(ies) with legal authority to implement the offset project. Only a Primary Account Representative or Alternate Account Representative may sign Listing documents, an Offset Project Data Report, a Request for Issuance, or attestations on behalf of the Offset Project Operator.
- (ffff) “Offset Project Registry” means an entity that meets the requirements of this chapter and is approved by Ecology that lists offset projects, collects Offset Project Data Reports, facilitates verification of Offset Project Data Reports, and issues registry offset credits for offset projects being implemented using a Compliance Offset Protocol.

- (gggg) "Offset protocols" means a set of procedures and standards to quantify GHG reductions or GHG removals achieved by an offset project.
- (hhhh) "Offset Verification" means a systematic, independent, and documented process for evaluation of an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report against Ecology Compliance Offset Protocols and this article for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancements.
- (iiii) "Offset Verification Services" means services provided during offset verification, including reviewing an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report, verifying its accuracy according to the standards specified in this section and applicable Compliance Offset Protocol, assessing the Offset Project Operator's or Authorized Project Designee's compliance with this article and applicable Compliance Offset Protocol, and submitting an Offset Verification Statement to Ecology or an Offset Project Registry.
- (jjjj) "Offset Verification Statement" means the final statement rendered by a verification body attesting whether an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report is free of an offset material misstatement, and whether the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol, and containing the attestations required pursuant to this article.
- (kkkk) "Offset Verification Team" means all of those working for a verification body, including all subcontractors, to provide offset verification services for an Offset Project Operator or Authorized Project Designee.
- (llll) "Opt-in entity" means a person responsible for greenhouse gas emissions that is not a covered entity but voluntarily participates in the program.
- (mmmm) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.
- (nnnn) "Overburdened community" includes, but is not limited to:
- (i) Highly impacted communities as defined in RCW 19.405.020;
  - (ii) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

- (iii) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.
- (iv) Overburdened communities identified by Ecology may include the same communities as those identified by Ecology through its process for identifying overburdened communities under RCW 70A.02.010.
- (oooo) "Party" means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.
- (pppp) "Person" has the same meaning as defined in Chapter 173-441 WAC.
- (qqqq) "Point of delivery" has the same meaning as in Chapter 173-441 WAC.
- (rrrr) "Positive Offset Verification Statement" means an Offset Verification Statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement and that the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol.
- (ssss) "Price ceiling unit" means the units issued at a fixed price by Ecology for the purpose of limiting price increases and funding further investments in GHG reductions.
- (tttt) "Program" means the GHG emissions cap and invest program created by and implemented pursuant to this chapter.
- (uuuu) "Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.
- (vvvv) "Project Baseline" means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.
- (wwww) "Qualified Positive Offset Verification Statement" means an Offset Verification Statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted Offset

Project Data Report is free of an offset material misstatement, but the Offset Project Data Report may include one or more nonconformance(s) with this article and applicable Compliance Offset Protocol which do not result in an offset material misstatement. Nonconformance, in this context, does not include disregarding the explicit requirements of this article or applicable Compliance Offset Protocol and substituting alternative requirements not approved by the Board.

- (xxxx) "Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.
- (yyyy) "Registry Offset Credit" means a credit issued by an Offset Project Registry for a GHG reduction or GHG removal enhancement of one metric ton of CO<sub>2</sub>e.
- (zzzz) Reporter" has the same meaning as in Chapter 173-441 WAC.
- (aaaa) "Resilience" means the ability to prepare, mitigate and plan for, withstand, recover from, and more successfully adapt to adverse events and changing conditions, and reorganize in an equitable manner that results in a new and better condition.
- (bbbb) "Retail electric load" has the same meaning as specified in RCW 19.405.020.
- (cccc) "Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, or otherwise used again.
- (dddd) "Specified source of electricity" or "specified source" has the same meaning as in Chapter 173-441 WAC.
- (eeee) "Supplier" means a supplier of fuel in Washington as defined in Chapter 173-441 WAC.
- (ffff) "Total Program Baseline" means the total of covered greenhouse gas emissions from covered entities.
- (ggggg) "Tribal lands" has the same meaning as defined in RCW 70A.02.010.
- (hhhhh) "Unintentional Reversal" means any reversal, including wildfires or disease that is not the result of the forest owner's negligence, gross negligence, or willful intent.
- (iiii) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.

(jjjjj) “Verification Body” means a firm accredited by Ecology, which is able to render an offset verification statement and provide offset verification services for Offset Project Operators or Authorized Project Designees subject to providing an Offset Project Data Report under this chapter.

(kkkkk) "Voluntary renewable reserve account" means a holding account maintained by Ecology from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

(2) Definitions from Chapter 173-441 WAC. For those terms not listed in subsection (1) of this section, the definitions found in Chapter 173-441 WAC apply in this chapter.

(3) Definitions from chapter 173-446A WAC. For those terms not listed in subsections (1) through (2) in this section, the definitions found in chapter 173-446A WAC apply in this chapter.

#### **WAC 173-446-030 Applicability.**

All covered emissions from facilities, suppliers, and first jurisdictional deliverers of electricity that meet the applicability requirements of this section are covered entities subject to this rule.

(1) Beginning with the first compliance period (emissions years 2023 through 2026) and for all subsequent compliance periods covered entities are:

(a) An owner or operator of a facility, other than those listed in subsection (a) (i) or (ii), with covered emissions for any calendar year from 2015 through 2019 equal to or exceeding 25,000 metric tons of carbon dioxide equivalent.

(i) A landfill used by a city or county solid waste management program or

(ii) A waste to energy facility used by a city or county solid waste management program.

(b) A first jurisdictional deliverer that generates electricity in Washington and whose covered emissions associated with this generation equal or exceed 25,000 metric tons of carbon dioxide equivalent per year;

(c) A first jurisdictional deliverer that imports electricity into the state, and whose of covered emissions associated with this imported electricity, whether from specified or unspecified sources, exceeds 25,000 metric tons of carbon dioxide equivalent per year;

(d) Any supplier of fossil fuel other than natural gas when 25,000 metric tons or more of covered emissions of carbon dioxide equivalent per year would result from the full combustion or oxidation of that fuel. Covered emissions do not include emissions from fuel products that are produced or imported with a documented



final point of delivery outside of Washington and combusted outside of Washington;

- (e) Any supplier of natural gas when more than 25,000 metric tons of covered emissions of carbon dioxide equivalent per year would result from the full combustion or oxidation of that natural gas. Covered emissions do not include emissions from fuel products:
    - (i) That are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington;
    - (ii) Supplied to covered entities under (a) through (d) of this subsection; and
    - (iii) Delivered to opt-in entities.
  - (f) Any person who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state an amount of natural gas whose covered emissions if fully combusted or oxidized would exceed 25,000 metric tons of carbon dioxide equivalent per year. Covered emissions do not include emissions from natural gas:
    - (i) Supplied to covered entities under (a) through (d) of this subsection; and
    - (ii) Delivered to opt-in entities.
  - (g) Any end-use customer in Washington who directly purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that, if fully combusted or oxidized, would result in covered emissions of more than 25,000 metric tons of carbon dioxide equivalent per year. Covered emissions do not include emissions from natural gas:
    - (i) Supplied to covered entities under (a) through (d) of this subsection; and
    - (ii) Delivered to opt-in entities.
- (2) Beginning with the second compliance period (emissions years 2027 through 2030) and for all subsequent compliance periods, covered entities also include any owner or operator of a waste to energy facility used by a county or city solid waste management program with annual covered emissions from 2023 through 2025 equal to or exceeding 25,000 metric tons of carbon dioxide equivalent per year.
- (3) Beginning with the third compliance period (emissions years 2031 through 2034) and for all subsequent compliance periods, covered entities also include:
- (a) An owner or operator of a landfill used by a county or city solid waste management program whose covered emissions equal or exceed 25,000 metric

tons of carbon dioxide equivalent per year for the years 2027 through 2029;  
Except landfills that meet both of the following requirements:

- (i) The landfill captures at least 75 percent of the landfill gas generated by the decomposition of waste as reported under Chapter 173-441 WAC; and
  - (ii) The landfill operates a program, individually or through partnership with another party, that results in the production of renewable natural gas or electricity from landfill gas generated by the facility.
- (b) A railroad company, as defined in RCW 81.04.010, whose covered emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent per year for the years 2027 through 2029.

**WAC 173-446-040 Covered emissions.**

- (1) Reported emissions. Covered emissions are GHG emissions reported under WAC 173-441 except as modified in subsections (2) through (4) of this section. Covered emissions:
- (a) Are calculated on a calendar year basis using Chapter 173-441 WAC;
  - (b) Include emissions of all GHGs included in WAC 173-441-040;
  - (c) Are expressed in units of CO<sub>2</sub>e as calculated using Chapter 173-441 WAC; and
  - (d) Must be based on any assigned emissions level under WAC 173-441-086.
- (2) Exemptions.
- (a) Covered emissions do not include the following reported emissions:
    - (i) Carbon dioxide emissions from the combustion of biomass or biofuels from any facility, supplier, or electric power entity;
    - (ii) GHG emissions from the following facilities:
      - (A) A coal-fired electric generation facility exempted from additional GHG limitations, requirements, or performance standards under RCW 80.80.110; or
      - (B) Facilities with North American industry classification system code 92811 (national security).
  - (b) The following supplier emissions are not covered emissions if the supplier can demonstrate to Ecology's satisfaction as specified under WAC 173-441-122 (5)(d)(xi) that the emissions originate from:

- (i) The combustion of the following fuels, if demonstrated to Ecology’s satisfaction that they are used for aviation purposes:
    - (A) Kerosene-type jet fuel, and
    - (B) Aviation gasoline.
  - (ii) Watercraft fuels supplied in Washington that are combusted outside of Washington, including:
    - (A) The following fuels may be assumed to be watercraft fuels combusted outside of Washington:
      - (I) Residual fuel oil No. 5 (Navy Special); and
      - (II) Residual fuel oil No. 6 (a.k.a. Bunker C).
    - (B) Suppliers must demonstrate to Ecology’s satisfaction both use in watercraft and combustion outside of Washington for all other fuels, including distillate No. 2 and distillate fuel oil No. 4, to qualify for this exemption.
  - (iii) Motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user as described in WAC 173-441-122 (5)(d)(xi)(c); or
  - (iv) Fuels used for transporting agricultural products on public highways if it meets the requirements in RCW 82.08.865 as described in WAC 173-441-122 (5)(d)(xi)(c). This exemption is in effect for emissions years 2023 through 2027 and is not available for emissions after 2027.
- (3) Allotment of covered emissions. The facility, supplier, or first jurisdictional deliverer that reports the GHG emissions is accountable for the covered emissions it reports unless otherwise described in this subsection. This subsection provides details on accountability for covered emissions and provides direction when emissions may be reported by multiple facilities, suppliers, or electric power entities.
- (a) Covered emissions for facilities.
    - (i) The following emissions are covered emissions for facilities:
      - (A) Emissions from the onsite combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas;

- (B) Emissions from the onsite combustion of residual fuel oil No. 5 (Navy Special), and residual fuel oil No. 6 (a.k.a. Bunker C);
  - (C) Emissions from the onsite combustion of fuel products where the fuel product was generated or modified onsite and not purchased in its combusted form from a supplier. These fuel products may include, but are not limited to: refinery gas, still gas, fuel gas, black liquor, landfill gas, and biogas
  - (D) Carbon dioxide collected and supplied offsite that does not meet the criteria specified in subsection (3)(a)(ii)(B) of this section; and
  - (E) Emissions from an electric generating facility in Washington serving as a first jurisdictional deliverer derived from any of the means in (A) through (D) except as exempted (2)(b) of this section.
  - (F) All other reported emissions under WAC 173-441-120 are covered emissions for the facility unless otherwise specified in subsection (2) or (3)(a)(ii) of this section.
- (ii) The following emissions are not covered emissions for facilities:
- (A) Emissions from the onsite combustion of any fuel product as described in WAC 173-441-122(5) except those described in subsection (3)(a)(i)(B) or (C) of this section:
  - (B) Carbon dioxide collected and supplied offsite that the facility owner or operator can demonstrate to Ecology's satisfaction meets either of the following criteria:
    - (I) The carbon dioxide is permanently removed from the atmosphere either through long term geologic sequestration or by conversion into long lived mineral form.
    - (II) The carbon dioxide is part of the covered emissions of another covered party under this chapter.
- (b) Allotment of covered emissions for suppliers of natural gas.
- (i) The following emissions are covered emissions for suppliers of natural gas:
    - (A) Emissions from the onsite combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas at any facility that is not a covered or opt-in entity under this chapter.

- (B) All other reported emissions under WAC 173-441-122(4) are covered emissions for the supplier unless otherwise specified in subsection (2) or (3)(b)(ii) of this section.
- (ii) The following emissions are not covered emissions for suppliers of natural gas:
  - (A) Emissions from the onsite combustion of natural gas, natural gas liquids, liquefied petroleum gas, compressed natural gas, or liquefied natural gas at any facility that is a covered or opt-in entity under this chapter.
  - (B) Any supplier of natural gas who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state, or any end-use customer in Washington who directly purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser may exclude emissions that would result from the full combustion or oxidation of that gas:
    - (I) For fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington;
    - (II) Supplied to other covered or opt-in entities under; or
    - (III) Delivered to opt-in entities.
- (c) Allotment of covered emissions for suppliers of fossil fuel other than natural gas.
  - (i) The following emissions are covered emissions for suppliers of fossil fuel other than natural gas:
    - (A) Emissions from the combustion of any petroleum product, biomass-derived fuel, or coal-based liquid fuel except those described in subsection (3)(a)(i)(B) or (C) of this section; or
    - (B) All other reported emissions under WAC 173-441-122(5) are covered emissions for the supplier of fossil fuel other than natural gas unless otherwise specified in subsection (2) or (3)(c)(ii) of this section.
  - (ii) The following emissions are not covered emissions for suppliers of fossil fuel other than natural gas:

- (A) Emissions from the combustion of fuel products described in subsection (3)(a)(i)(B) or (C) of this section;
  - (B) Emissions that would result from the combustion of fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; or
  - (C) The emissions are part of the covered emissions of another covered or opt-in entity under this chapter.
- (d) Allotment of covered emissions to suppliers of carbon dioxide.
- (i) The following emissions are covered emissions for suppliers of carbon dioxide:
    - (A) Carbon dioxide supplied that does not meet the criteria specified in subsection (3)(d)(ii) of this section; or
    - (B) All other reported emissions under WAC 173-441-122(3) are covered emissions for the supplier of carbon dioxide unless otherwise specified in subsection (2) or (3)(d)(ii) of this section.
  - (ii) Carbon dioxide supplied that the supplier owner or operator can demonstrate to Ecology's satisfaction meets either of the following criteria are not covered emissions for suppliers of carbon dioxide:
    - (A) The carbon dioxide is permanently removed from the atmosphere either through long term geologic sequestration or by conversion into long lived mineral form; or
    - (B) The carbon dioxide is part of the covered emissions of another covered or opt-in party under this chapter.
- (e) Allotment of covered emissions to first jurisdictional deliverers of imported electricity.
- (i) GHG emissions associated with imported electricity are covered emissions for the first jurisdictional deliverer serving as the electricity importer for that electricity.
  - (ii) A utility that purchases electricity for use in the state of Washington from a federal power marketing administration is the importer and first jurisdictional deliverer of that electricity. Such a utility is a covered entity under this program and has the compliance obligation for the GHG emissions associated with that electricity.

- (4) **Adjustments to covered emissions.** Ecology may adjust the covered emissions for any emissions year for a facility, supplier, or first jurisdictional deliverer based on new reported information, an assigned emissions level under WAC 173-441-086, or to compensate for a change in methodology as described in WAC 173-441-050(4).

**WAC 173-446-050 Covered entity registration.**

- (1) Any reporter under Chapter 173-441 WAC reporting at least 25,000 metric tons of covered CO<sub>2</sub>e emissions per calendar year for 2015 or any year thereafter that meets the applicability conditions in WAC 173-446-030 or 173-446-060 is automatically registered as a covered entity in Washington's cap and invest program.
- (2) The owner or operator of any reporter under Chapter 173-441 WAC that is not a covered entity may ask Ecology to be registered in Washington's cap and invest program as an opt-in entity. Upon receipt of this request, Ecology will register the reporter in the cap and invest program as an opt-in entity. Opt-in entities incur compliance obligations as if they were covered entities.
- (3) Any party who is not a reporter but is responsible for GHG in Washington may voluntarily participate in the cap and invest program as an opt-in entity. To participate, these persons must:
  - (1) Report GHG to Ecology under the voluntary reporting requirements in Chapter 173-441 WAC;
  - (2) Request to be registered in the cap-and-invest program as an opt-in entity; and
  - (3) Incur compliance obligations as if they were covered entities.
- (4) Ecology will email notice of registration to the designated representative and alternate designated representative of each newly-registered entity.
- (5) Any covered entity receiving notice of registration that believes it was registered in error and should not be included in the program may provide a written request to Ecology explaining why it should be removed from registration.

**WAC 173-446-053 Electric Utilities Registration**

- (1) All electric utilities in Washington that do not report GHG emissions under Chapter 173-441 WAC must register to receive no cost allowances.
- (2) To register, electric utilities must provide the following information to Ecology:
  - (a) Name, physical and mailing addresses, contact information, party type, date and place of incorporation, and ID number assigned by the incorporating agency;

- (b) Names and addresses of the utility’s directors and officers with authority to make legally binding decisions on behalf of the utility, and partners with more than 10 percent of control over the partnership, including any individual or party doing business as a limited partner or general partner;
- (c) Names and contact information for persons controlling more than 10 percent of the voting rights attached to all the outstanding voting securities of the utility;
- (d) A business number, if one has been assigned to the utility by a Washington State agency;
- (e) A government issued taxpayer or Employer Identification Number, or a U.S. Federal Tax Employer Identification Number, if assigned;
- (f) Disclosure of all other parties with whom the utility has a direct corporate association or indirect corporate association that must be reported pursuant to section WAC 173-446-120 and a brief description of the association. Utilities must complete this disclosure before they may hold allowances;
- (g) Names and contact information for all employees of the utility with knowledge of the utility’s market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions);
- (h) Information required pursuant to section WAC-173-446-056 for individuals serving as Cap-and-Invest Consultants and Advisors for registered entities participating in the Cap-and-Invest Program.

**WAC 173-446-055 General market participants registration.**

- (1) A party not identified as a covered entity or opt-in entity that intends to hold Washington compliance instruments may apply to Ecology for approval as a general market participant.
  - (a) The following defines the parties that may qualify as general market participants:
    - (i) An individual, or a party that does not meet the requirements to be a covered entity or an opt-in entity, that intends to purchase, hold, sell, or voluntarily retire compliance instruments;
    - (ii) A party operating an offset project that is registered with Ecology pursuant to WAC 173-446-500 (offsets). Parties qualifying as general market participants under this subparagraph may hold offsets without needing to fulfill the requirements of WAC 173-446-120. Parties qualifying as general market participants under this subparagraph may also hold allowances, but only after fulfilling the requirements of WAC 173-446-120.



- (b) An individual registering as a general market participant must have primary residence in the United States.
- (c) Registration and consulting activities. An individual who provides cap-and-invest consulting services as described in WAC 173-446-056 and registers as a general market participant in the tracking system must disclose to Ecology the parties for which the individual is providing consulting services.
  - (i) The disclosure must be made when the individual registers as a general market participant, or within 30 days of initiating the consulting activity if the individual is already registered.
  - (ii) If the individual is associated with a party providing cap-and-invest consulting services so that in the course of the individual's duties the individual gains access to the market position of another registered entity, then the individual must provide a notarized letter from the party providing the cap-and-invest consulting services stating that it is aware of the individual's plans to apply as a general market participant in the Cap-and-Invest Program and that it has conflict of interest policies and procedures in place that prevent the individual from using information gained from the relationship with the party for personal gain in the Cap-and-Invest Program. Failure to provide such a letter by the applicable deadline described above in subsection (1)(c)(i) will result in suspension, modification, or revocation of the individual's tracking system account.
- (d) An individual who is already registered in the tracking system and intends to provide cap-and-invest program advisory services to other registered entities must disclose the proposed relationship with the other registered entities to Ecology and comply with the requirements of subsection (1)(a)(ii) above prior to providing the advisory services. Failure to provide such a letter by the deadline will result in suspension, modification, or revocation of the individual's tracking system account.
- (e) A party registering as a general market participant must be located in the United States, according to the registration information provided pursuant to subsection (3) of this section.
- (f) Individuals identified by registered entities pursuant to section WAC 173-446-120(1)(c), (d), or (h); WAC 173-446-130; WAC 173-446-140; or WAC 173-446-056, unless disclosed pursuant subsection (1)(c) of this section; are not eligible to register as general market participants.
- (g) An individual who is an employee of a party subject to the requirements of Chapters 173-441 or 173-446 WAC is not eligible to register as a general market participant.

- (2) Restrictions on other registered entities. The following entities do not qualify to hold compliance instruments and do not qualify as a registered entity:
  - (a) An offset verifier accredited pursuant to WAC 173-446-xxx (offsets);
  - (b) A verification body accredited pursuant to WAC 173-446-xxx (offsets);
  - (c) Offset project registries; and
  - (d) An emissions reporting verifier accredited pursuant to Chapter 173-441 WAC.
- (3) General market participant registration.
  - (a) Any party wishing to register as a general market participant must provide the following information to Ecology:
    - (i) Name, physical and mailing addresses, contact information, party type, date and place of incorporation, and ID number assigned by the incorporating agency;.
    - (ii) Names and addresses of the general market participant's directors and officers with authority to make legally binding decisions on behalf of the general market participant, and partners with more than 10 percent of control over the partnership, including any individual or party doing business as the limited partner or general partner;
    - (iii) Names and contact information for persons controlling more than 10 percent of the voting rights attached to all the outstanding voting securities of the party;
    - (iv) A business number, if one has been assigned to the party by a Washington State agency;
    - (v) A government issued taxpayer or Employer Identification Number, or a U.S. Federal Tax Employer Identification Number, if assigned;
    - (vi) Disclosure of all other parties with whom the party has a direct corporate association or indirect corporate association that must be reported pursuant to section WAC 173-446-120 and a brief description of the association. Parties qualifying as general market participants under (1)(a)(ii) of this subsection must complete this disclosure before they may hold allowances;
    - (vii) Names and contact information for all employees of the party with knowledge of the party's market position (current and/or expected

holdings of compliance instruments and current and/or expected covered emissions);

- (viii) Information required pursuant to section WAC-173-446-056 for individuals serving as Cap-and-Invest Consultants and Advisors for registered entities participating in the Cap-and-Invest Program.

**WAC 173-446-056 Cap-and-invest consultants and advisors.**

- (1) A “Cap-and-Invest Consultant or Advisor” is an individual or party that is not an employee of a registered entity, but is providing any of the following services for a party registered in the Cap-and-Invest Program, regardless of if the consultant or advisor is acting in the capacity of an offset or emissions verifier:
  - (a) Designing, developing, implementing, reviewing or maintaining an inventory or offset project information or data management system for air emissions or development of a forest management plan, or timber harvest plan, unless the review was part of providing GHG offset verification services; or, where applicable, designing, developing, implementing, reviewing or maintaining electricity or fuel transactions, unless the review was part of providing GHG verification services;
  - (b) Developing GHG emission factors or other GHG-related engineering analysis, including developing or reviewing a GHG analysis to comply with the State Environmental Policy Act (SEPA) that includes offset project specific information;
  - (c) Designing energy efficiency, renewable power, or other projects which explicitly identify GHG reductions and GHG removal enhancements as a benefit;
  - (d) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and GHG removal enhancements;
  - (e) Owning, buying, selling, trading, or retiring shares, stocks, or Ecology offset credits, or registry offset credits from an offset project;
  - (f) Dealing in or being a promoter of Washington offset credits on behalf of an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), or where the credits are owned by or the offset project was developed by the reporting party;
  - (g) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for a reporting party or an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
  - (h) Appraisal services of carbon or GHG liabilities or assets;

- (i) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;
- (j) Directly responsible for developing any health, environment or safety policies for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s); or directly managing any health, environment or safety functions for a reporting party;
- (k) Bookkeeping or other services related to the accounting records or financial statements;
- (l) Any service related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification) and energy management systems, including those conforming to ISO 50001, unless those systems will not be part of an emissions verification process and will not be reviewed as part of the offset verification process;
- (m) Appraisal and valuation services, both tangible and intangible;
- (n) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the emissions verification process and the information reviewed in formulating the Offset Verification Statement will not be reviewed as part of the offset verification process;
- (o) Any actuarially oriented advisory service involving the determination of accounts recorded in financial statements and related accounts;
- (p) Any internal audit service that has been outsourced by the reporting party or by the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that relates to the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s)' internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;
- (q) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of a reporting party or an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
- (r) Any legal services provided by outside counsel hired by a registered entity and providing legal services related to any of the other services described in this section. Also, any attorney providing non-legal services, such as brokering, auditing, financial advice, bid strategy, or other services listed in this section; and

- (s) Expert services to an emissions reporter or to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s)' interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.
- (2) A party employing Cap-and-Invest Consultants or Advisors must disclose to Ecology the following information for each Cap-and-Invest Consultant or Advisor:
- (a) Information to identify the Cap-and-Invest Consultant or Advisor, including:
    - (i) Name;
    - (ii) Contact information;
    - (iii) Physical work address of the Cap-and-Invest Consultant or Advisor; and
    - (iv) Employer, if applicable.
  - (b) The party must disclose the information in section (a) in this subsection to Ecology:
    - (i) With the disclosures required under WAC 173-446-120;
    - (ii) Within 30 days of entering into a contract with a Cap-and-Invest Consultant or Advisor; and
    - (iii) Within 30 days of a change to the information disclosed on Consultants and Advisors.

**WAC 173-446-060 New or modified covered entities.**

- (1) Unless otherwise provided under WAC 173-446-030, any facility, supplier, or first jurisdictional deliverer beginning operation or modified after January 1, 2023 becomes a covered entity in the calendar year in which its emissions reach the thresholds listed in WAC 173-446-030, or upon formal notice from Ecology that the facility, supplier, or first jurisdictional deliverer is expected to exceed those thresholds, whichever happens first. Covered entities meeting these criteria are required to transfer their first allowances on November 1 of the year following the year in which their covered emissions were equal to or exceeded 25,000 metric tons CO<sub>2</sub>e per year.
- (2) Any waste to energy facility that is used by a county or city solid waste management program and is newly constructed or modified after January 1, 2027 becomes a covered entity in the calendar year in which its emissions reach the thresholds listed in WAC 173-446-030, or upon formal notice from Ecology that the facility is expected to exceed those thresholds, whichever happens first. Covered entities meeting these criteria are required to transfer their first allowances on November 1 of the year following the year in which their covered emissions were equal to or exceed 25,000 metric tons CO<sub>2</sub>e per year.

- (3) Any facility, supplier, or first jurisdictional deliverer of the types described in WAC 173-446-030(1) that were in operation between 2015 and 2019 but were not required to report emissions for 2015 through 2019 becomes a covered entity in the calendar year following the year in which its covered emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent per year as reported under Chapter 173-441 WAC, or upon formal notice from Ecology that the facility, supplier, or first jurisdictional deliverer's covered emissions are expected to exceed 25,000 metric tons of carbon dioxide equivalent per year for the first year the entity is required to report emissions, whichever happens first. Entities meeting these criteria are required to transfer their first allowances on November 1 of the year following the year in which their covered emissions were equal to or exceeded 25,000 metric tons CO<sub>2</sub>e per year.

**WAC 173-446-070 Curtailment and closure.**

- (1) When a covered entity reports covered emissions that are below 25,000 metric tons of carbon dioxide equivalent in any given calendar year during a compliance period, the covered entity continues to have a compliance obligation through the end of that compliance period.
- (2) A covered entity may exit the program based on the following:
  - (a) Except as provided in (2)(b) of this subsection, when a covered entity reports covered emissions below 25,000 metric tons of carbon dioxide equivalent for each year during an entire compliance period, or has ceased all processes at the facility requiring reporting under Chapter 173-441 WAC, the facility, supplier, or first jurisdictional deliverer is no longer a covered entity as of the beginning of the subsequent compliance period.
  - (b) A covered entity identified in subsection (2)(a) above will remain a covered entity if Ecology provides notice at least 12 months before the end of the compliance period that the facility, supplier, or first jurisdictional deliverer's covered emissions are within 10 percent of the 25,000 metric-ton threshold, and the covered entity must remain a covered entity to ensure equity among all covered entities.
  - (c) Whenever a covered entity ceases to be a covered entity, Ecology must notify the appropriate policy and fiscal committees of the legislature of the name of the facility, supplier, or first jurisdictional deliverer and the reason it is no longer a covered entity.

**WAC 173-446-080 Allowances.**

- (1) Ecology shall create GHG allowances as required to cover the annual allowance budgets determined in WAC 173-446-210.

- (2) Ecology shall assign each GHG allowance a unique serial number that indicates the annual allowance budget from which the allowance originates.

## **PROGRAM ACCOUNT REQUIREMENTS**

### **WAC 173-446-100 Program accounts required.**

- (1) Within 30 days after receiving a registration notice from Ecology, each registered entity must make corporate association disclosures and designate account representatives as described in WAC 173-446-105 through 173-446-140 below. Within 30 days after Ecology has received the required complete documents, Ecology will set up the required accounts for each registered entity.
- (2) A registered entity that is a member of a direct corporate association may apply for a consolidated entity account to include other associated registered entities from within the direct corporate association. To do so, the applicant must identify each associated registered entity that will be assigned to its account, and each associated registered entity must provide an attestation signed by its officer or director to confirm that it seeks to be added to the consolidated entity account. The applicant must be able to demonstrate that it has the controlling ownership or authority to act on behalf of all members of the direct corporate association. The applicant cannot be a party that is a subsidiary to or controlled by another associated entity within the direct corporate association.
- (3) A registered entity that is a member of a direct corporate association and seeks to apply for its own separate registered entity account, rather than apply for a consolidated entity account, must provide an allocation of the holding and purchase limits among the separate accounts established for any of its corporate associates per the requirements of WAC 173-446-120(1)(i). All members of a direct corporate association must separately confirm the allocation of holding and purchase limits.

### **WAC 173-446-105 Disclosure of corporate associations – Indicia of corporate association.**

- (1) A corporate association exists when one party has an ownership interest in or control over a second party. The following criteria determine ownership or control:
  - (a) Percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other party;
  - (b) Percent of common owners, directors, or officers of the other party;
  - (c) Percent of the voting power of the other party;
  - (d) In the case of a partnership other than a limited partnership, percent of the interests of the partnership;
  - (e) In the case of a limited partnership, the percent of control over the general partner or the percent of the voting rights to select the general partner; and

- (f) In the case of a limited liability corporation, percent of ownership in the other party regardless of how the interest is held.
- (2) An party has a direct corporate association with another party, regardless of whether the second party is registered in the Cap-and-Invest Program or in an external GHG ETS to which Washington is linked, if either one of these entities has any criterion in subsection (1) of this section that is greater than 50 percent.
- (3) A direct corporate association also exists when two entities are connected through a line of more than one direct corporate association.
  - (a) A party (A) has a direct corporate association with another party (B) if the two entities share a common parent and that parent has direct corporate association with each party (A and B) when applying the indicia of control contained in subsection (1) of this section.
  - (b) A party that has a direct corporate association with a second party also has a direct corporate association with any party with whom the second party has a direct corporate association.
- (4) A party has an indirect corporate association with another party if:
  - (a) The two parties do not have a direct corporate association; and
  - (b) The controlling party's percentage of ownership, or any indicia of control identified in subsection (1) of this section, of the controlled party is more than 20 percent but less than or equal to 50 percent. If the two entities are connected through a chain of more than one corporate association, the indicia of control identified in subsection (1) of this section is calculated by multiplying the percentages at each link in the chain of corporate associations starting with the last party that is in a direct corporate association. An indirect corporate association exists between the two entities if the total percentage of control is more than 20 percent but less than or equal to 50 percent when multiplying the percentage of control at each link in the chain of corporate associations.
- (5) A publicly owned electric utility that is the operator of an electricity generating facility in Washington has a direct corporate association with the operator of another electricity generating facility in Washington if the same party operates both generating facilities. A publicly owned electric utility that is the operator of an electricity generating facility in Washington has a direct corporate association with an electricity importer if the same party operates the generating facility in Washington and is the party importing electricity.
- (6) An individual who has access to the market positions (current and/or expected holdings of compliance instruments and current and/or expected covered emissions) of two or more parties registered in the tracking system or registered in an external GHG ETS to



which Washington has linked is considered an individual who has shared roles. For the purposes of this requirement, Account Representatives are defined as having access to the market positions of the registered entities they serve.

- (a) If any individual with shared roles is an employee of a registered entity for which the individual has a shared role, the registered entities for which the individual has the shared role will have a direct corporate association.
- (b) If any individual is a Cap-and-Invest Consultant or Advisor for the registered entities for which the individual has a shared role, but is not disclosed pursuant to WAC 173-446-056, and the individual can use market position information obtained through the shared role without restriction, the registered entities for which the individual has shared roles will have a direct corporate association. It is the responsibility of the registered entity employing an individual as a Cap-and-Invest Consultant or Advisor to determine if the individual has access to the registered entity's market position.

**WAC 173-446-110 Disclosure of corporate associations – types of disclosures required.**

- (1) Registered entities must disclose all direct and indirect corporate associations with entities registered in the Cap-and-Invest Program or in another external GHG ETS to which Washington has linked.
- (2) Registered entities must disclose all direct corporate associations with parties not registered in the Cap-and-Invest Program or in another external GHG ETS to which Washington has linked if those parties have the degree of ownership interest in or control over the registered entity to meet the requirements of having a direct corporate association.
- (3) A registered entity that has a direct or indirect corporate association with another registered entity must disclose the identity of all parties involved in the line of direct or indirect corporate associations between the two registered entities, even if such parties are not registered.
- (4) Registered entities that have direct corporate associations with unregistered parties in the United States or Canada that are otherwise not required to be disclosed must disclose those associations within 30 calendar days of a request by Ecology. The disclosing party may elect to disclose only those directly associated parties located in the United States or Canada that participate in a market related to the Cap-and-Invest Program.
  - (a) Parties participating in a market related to the Cap-and-Invest-Program include only those that purchase and sell GHG compliance instruments, natural gas, oil, or electricity; or conduct exchange trades involving derivatives or swaps based on GHG compliance instruments, natural gas, oil, or electricity.
  - (b) The disclosure of parties in related markets may be accomplished through the submission of the most recent information submitted to another government

agency in the United States using one or more of the following official governmental forms or documentation as needed to meet the required disclosure: (1) Exhibit 21 of the Form 10-K submitted to the Securities and Exchange Commission by the registrant or an affiliate of the registrant; (2) the application for market-based rate authority, or update to such application, submitted by the registrant or an affiliate of the registrant to the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 and Order 697; (3) the application for registration with the National Futures Association, or update to such application, submitted by the registrant or an affiliate of the registrant as required by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act; (4) Form 40 or Form 40S filed by the registrant or an affiliate of the registrant in accordance with the Commodity Futures Trading Commission's reporting rules; and/or (5) Part 1A of a Form ADV filed with the Securities and Exchange Commission by a registered investment advisor responsible for managing the registrant.

- (5) Registered entities that have direct corporate associations with other parties outside the United States and Canada that participate in a market related to the Cap-and-Invest Program that are not otherwise required to be disclosed must disclose those associations within 30 calendar days of a request by Ecology.
  - (a) Parties participating in a market related to the Cap-and-Invest Program include only those that purchase and sell GHG compliance instruments, natural gas, electricity, or oil; or conduct exchange trades involving derivatives or swaps based on GHG compliance instruments, natural gas, oil, or electricity.
  - (b) Registered entities may disclose these associations using the documentation options listed in RCW 172-446-110(4)(b).
- (6) The following entities are exempt from the disclosure requirements:
  - (a) Any registered entity subject to affiliate compliance rules promulgated by state or federal agencies shall not be required to disclose information or take other action that violates those rules.
  - (b) A party registering as a general market participant solely to hold offsets is not required to disclose any direct or indirect corporate associations.

**WAC 173-446-120 Disclosure of corporate association – information to be submitted.**

- (1) Registered entities disclosing direct or indirect corporate association must provide the following information for each reportable corporate association:
  - (a) Name, contact information, and physical address of the party;
  - (b) Tracking system identification number, if applicable;

- (c) Names and addresses of the party's directors and officers with authority to make legally binding decisions on behalf of the party, and partners with over 10 percent of control over the partnership, including any individual or entity doing business as the limited partner or general partner.
  - (d) Names and contact information for individuals or parties controlling over 10 percent of the voting rights attached to all the outstanding voting securities of the party.
  - (e) Business number, if one has been assigned by a Washington State agency.
  - (f) A government issued Taxpayer Identification Number or Employer Identification Number, or for parties located in the United States, a U.S. Federal Tax Employer Identification Number, if assigned;
  - (g) Place and date of incorporation, if applicable;
  - (h) Names and contact information for all employees of the party with knowledge of the party's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions); and
  - (i) For direct corporate associations with registered entities only, the percentage share of the holding limit and purchase limit assigned to each party opting out of account consolidation pursuant to WAC 173-446-120; the sum of the shares must equal 100 percent.
  - (j) Any further information requested by Ecology concerning the corporate association.
- (2) Registered entities that have disclosable corporate associations must identify whether the type of corporate association is direct or indirect.
- (a) Registered entities identifying an indirect corporate association must provide a brief description of the association, including information sufficient to explain the registered entity's evaluation of the indicia of control in WAC 173-446-100 (1) that was used to determine the type of corporate association disclosed for each associated party.
  - (b) Registered entities identifying a direct corporate association must identify the nature of the associated party as a parent, a subsidiary, or a party with a common parent, but need not include an evaluation of the indicia of control.
- (3) All corporate association disclosures required by this section must be provided by doing xxx.
- (4) The registered entity must disclose the information required:

- (a) Within 30 days after receiving Registration Notification from Ecology under WAC 173-446-050.
- (b) Within 10 days of receiving a request for further information from Ecology.
- (c) Within 30 calendar days of the creation of a direct or indirect corporate association or of a change in the type of a corporate association involving registered entities pursuant to WAC 173-446-110(1) or WAC 173-446-100(6)(b); or registered and unregistered parties pursuant to section WAC 173-446-110(2) and (3).
- (d) Within one year of a modification if the changes in information involve only unregistered parties disclosed pursuant to sections WAC 173-446-100(4) and (5).
- (e) No later than 10 calendar days prior to the auction application deadline established in [the section of the rule on auctions] when disclosing a change related to another party registered in the Cap-and-Invest Program or to parties registered into other external GHG ETS to which Washington has linked, if the disclosing entity intends to participate in the auction; and
- (f) Within one year for all other changes.

**WAC 173-446-130 Designation and certification of account representatives.**

- (1) Within 30 days after receiving registration notification from Ecology, every registered entity must designate at least 2 and at most 5 natural persons to act as account representatives to perform any operations within the Cap-and-Invest Program on its behalf. The registered entity must identify one primary account representative, who is the resource person to be contacted for any information concerning the registered entity. For the purposes of the designations, the registered entity must provide Ecology with the following information and documents:
  - (a) The name and contact information of the registered entity;
  - (b) The following information concerning each designated account representative:
    - (i) Name and contact information at the individual's home address;
    - (ii) The individual's date of birth;
    - (iii) Copies of at least 2 identity documents, including one with a photograph, issued by a government or one of its departments or agencies, bearing the individual's name and date of birth; along with an attestation from a notary completed less than 3 months prior to the application, stating that the notary has established the identity of the individual and verifying the authenticity of the copies of the identity documents;

- (iv) The name and contact information of the individual's employer;
  - (v) Confirmation from a financial institution located in the United States that the individual has a deposit account with the institution; and
  - (vi) Any conviction for a criminal offense declared in any jurisdiction during the previous five years constituting a felony under U.S. federal law or Washington law, or the equivalent thereof. The disclosure must include the type of violation, jurisdiction, and year;
- (c) A declaration signed by a director or by any other officer, or a resolution of the board of directors of the registered entity attesting that the account representatives have been duly designated to act on behalf of the registered entity for the purposes of this program;
  - (d) An attestation from a notary or attorney confirming the link between an account representative and the registered entity; and
  - (e) The following declaration signed by each of the account representatives, "I certify under penalty of perjury under the laws of the state of Washington that I was selected as the primary account representative or the alternate account representative, as applicable, by an agreement that is binding on all parties who have an ownership interest with respect to compliance instruments held in the account. I certify that I have all the necessary authority to carry out the duties and responsibilities contained in Chapter 173-446 WAC on behalf of such parties and that each such party shall be fully bound by my representations, action, inactions, or submissions and by any order or decision issued to me by Ecology or a court regarding the account."
- (2) A registered entity must have at least 2 account representatives at all times, including a primary account representative.
  - (3) All representations, acts, errors or omissions made by the account representatives in the performance of their duties are deemed to be made by the registered entity.
  - (4) Each submission concerning the account shall be submitted, signed, and attested to by the primary account representative or any alternate account representative for the party that owns the compliance instruments held in the account. Each such submission shall include the following attestation statement made and signed by the primary account representative or any alternate account representative: "I certify under penalty of perjury under the laws of the state of Washington that I am authorized to make this submission on behalf of the party that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the state of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary

responsibility for obtaining the information, I certify under penalty of perjury under the laws of the state of Washington that the statements and information submitted to Ecology are true, accurate, and complete. I consent to the jurisdiction of Washington State and its courts for purposes of enforcement of the laws, rules and regulations pertaining to Chapter 173-446 WAC and Chapter 70A.65 RCW. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

- (5) The duties of the account representatives terminate when a request for revocation is received from the registered entity and, when a registered entity has only 2 representatives, only after a new representative has been designated. The duties of the account representatives also terminate when all the accounts of the registered entity are closed.
- (6) If the registered entity is a natural person, any act that must be performed by an account representative in this program must be performed by the registered entity.
- (7) At the written request of a registered entity, Ecology may, before a request for revocation of mandate is sent to Ecology by the Registered Entity, where the urgency of the situation warrants it, withdraw access to the electronic system from one of its account representatives.
- (8) Only an individual who resides in Washington may be designated as the primary account representative of a registered entity.
- (9) No individual designated as an account representative or authorized as an account viewing agent may have been found guilty, in the 5 years prior to the notice of designation or authorization, of fraud or any other criminal offense connected with the activities for which designation is requested.

**WAC 173-446-140 Designation of account viewing agents.**

- (1) A primary account representative or alternate account representative for a registered entity may authorize up to 5 natural persons per account to act as account viewing agents who may view all information contained in the tracking system involving the registered entity’s accounts, information, and transfer records (account viewing authority). The persons delegated shall not have authority to take any other action with respect to an account on the tracking system.
- (2) To delegate account viewing authority, the primary account representative or alternate account representative, as appropriate, must submit to Ecology a notice of delegation that includes the following:
  - (a) The name, address, email address, and telephone number of each primary account representative or alternate account representative;

- (b) The name, address, email address, and telephone number of each natural person delegated to be an account viewing agent; and
  - (c) An attestation verifying the selection of the account viewing agent, signed by the officer of the registered entity who is responsible for the conduct of the account viewing agent, and is one of the officers disclosed pursuant to WAC 173-446-120(1)(c).
- (3) A notice of delegation for an account viewing agent shall be effective with regard to the accounts identified in such notice, upon receipt of the notice by Ecology and until receipt by Ecology of a superseding notice of delegation by the primary account representative or alternate account representative as appropriate. The superseding notice of delegation may replace any previously identified account viewing agent, add a new account viewing agent, or eliminate entirely any delegation of authority.

**WAC 173-446-150 Accounts for registered entities.**

- (1) Within 30 days after Ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, Ecology will set up two accounts for each covered entity and two accounts for each opt-in entity:
- (a) A compliance account through which compliance instruments are transferred to Ecology for retirement. Compliance instruments in compliance accounts may not be sold, traded, or otherwise provided to another account or person.
  - (b) A holding account for allowances that may be bought, sold, transferred to another registered entity, or traded.
- (2) Within 30 days after Ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, Ecology will set up a holding account for each general market participant.
- (3) Holding limits.
- (a) The maximum total number of allowances of the current or prior vintage, that a covered entity or an opt-in entity may hold in its holding account and, where applicable, its compliance account is the following:
   

$$HL_i = 0.1 \times 25,000,000 + 0.025 \times (C_i - 25,000,000)$$
  
 $HL_i$  = holding limit for year  $i$ 
  
 $C_i$  = annual cap on emissions for year  $i$ 
  
 $i$  = current year

- (b) The maximum number of allowances of each vintage subsequent to the current year that a covered entity or opt-in entity may hold in its holding account and, where applicable, its compliance account, is the following:

$$HL_j = 0.1 \times 25,000,000 + 0.025 \times (C_j - 25,000,000)$$

HL<sub>j</sub> = holding limit for year j

C<sub>j</sub> = annual cap on emissions for year j

j = year subsequent to the current year

- (c) The holding limits set in (3)(a) and (b) of this subsection do not apply to the allowances recorded in the compliance account of a covered entity or opt-in entity and needed to cover estimated GHG emissions for the current year or emissions for preceding years.
- (d) A covered entity or an opt-in entity that reaches or exceeds one-half of its holding limit must, at Ecology's request, explain its strategy and the reason for holding the emission units.
- (e) When its holding limit is exceeded, a registered entity must, within 5 business days after the limit is exceeded, divest itself of the excess emission allowances, pay into its compliance account the allowances needed to cover its emissions for the current year or preceding years, or, in the case of consolidated entities, amend the distribution of the overall holding limit to become compliant. Upon a failure to comply, Ecology will take back the excess allowances and make them available for auction.
- (4) Ecology will post information about the contents of each holding account, including but not limited to the number of allowances in the account, on Ecology's Cap-and-Invest public website. The website also includes a public roster of all covered entities, opt-in entities, and general market participants.
- (5) Voluntary renewable reserve account to hold (and from which to retire) allowances for voluntary renewable electricity generation on behalf of voluntary renewable energy purchasers or end users.

## **ALLOWANCE BUDGETS AND DISTRIBUTION OF ALLOWANCES**

### **WAC 173-446-200 Total program baseline.**

- (1) **Total program baseline and subtotal baselines.**  
Ecology must use the following methods for establishing a total program baseline for this chapter.
- (a) Subtotal baselines are calculated individually for each reporter or sector on an annual basis as described in subsection (2) of this section. The total program baseline is the sum of the subtotal baselines. The total program baseline is given



in Table 200-1. Ecology may only adjust the total program baseline through rulemaking as described in subsections (3) through (4) of this section.

- (b) Ecology may use the following data sources when calculating subtotal baselines depending on data availability, quality, applicability, and the agency's best professional judgement. Ecology may adjust data and combine information from multiple sources when calculating subtotal baselines.
  - (i) Data reported to Ecology under Chapter 173-441 WAC;
  - (ii) Data provided or described in subsections (2) through (4) of this section;
  - (iii) Data voluntarily provided by covered parties; or
  - (iv) Data or estimates obtained or made by Ecology.
- (2) **Subtotal baselines for sectors entering the program in the first compliance period.** Ecology must use the following methods for establishing subtotal baselines for facilities, suppliers, or electric power entities described under WAC 173-446-030(1) that would meet applicability requirements based on covered GHG emissions from 2015 through 2019. Subtotal baselines are the annual average of covered emissions for each reporter or sector on a mass basis as established in WAC 173-446-040 from emissions years 2015 through 2019. All emissions years are included in the average, including periods of closure, curtailment, or under the thresholds in WAC 173-446-030(1) as long as at least one emissions year from 2015 through 2019 would have exceeded the applicability requirements described under WAC 173-446-030(1) for the given facility, supplier, or first jurisdictional deliverer.
  - (a) Facilities that are not EITEs. Ecology must calculate subtotal baselines for facilities that are not EITEs, including electric generating facilities reporting under WAC 441-120, based on the facility's covered emissions as established in WAC 173-446-040.
  - (b) EITE facilities. Ecology must calculate subtotal baselines for EITE facilities based on the facility's covered emissions as established in WAC 173-446-040.
  - (c) Suppliers of natural gas. Ecology must calculate subtotal baselines for suppliers of natural gas based on the supplier's covered emissions as established in WAC 173-446-040. Ecology must use the supplementary reports defined in WAC 173-446-240 for calculations whenever available and adjust covered emissions to account for large customers as described in WAC 173-446-040(3)(b)(ii).
  - (d) Suppliers of fossil fuel other than natural gas. Ecology must calculate subtotal baselines for suppliers of fossil fuel other than natural gas based on the supplier's covered emissions as established in WAC 173-446-040. Ecology must use the existing Department of Licensing based transportation fuel supplier reports

previously submitted to Ecology for calculations. Ecology may adjust covered emissions from the transportation fuel supplier reports to subtract GHG emissions estimated to be associated with aviation and add emissions associated with fuel products combusted at facilities as described in WAC 173-446-040(3)(c).

- (e) Carbon dioxide suppliers. Ecology must calculate subtotal baselines for carbon dioxide suppliers based on the supplier’s covered emissions as established in WAC 173-446-040.
  - (f) Electric power entities. Ecology must calculate subtotal baselines for electricity importers based on their covered emissions as established in WAC 173-446-040. Ecology will use fuel mix disclosure reports generated by the Department of Commerce in accordance with RCW 19.29A.060 to identify and catalog all contracted power and methods from WAC 173-444-040 to estimate GHG emissions. Subtotal baselines for electric generating facilities reporting under WAC 173-441-120 will be calculated as specified under subsection (2)(a) of this section and are not part of the electric power entity subtotal baseline.
- (3) **Subtotal baselines for sectors entering the program in the second compliance period.** Subtotal baselines for facilities in sectors described under WAC 173-446-030(2) must be calculated based on the facilities’ covered emissions as established in WAC 173-446-040 averaged from emissions years 2023 through 2025. Ecology must adjust the total program baseline in Table 200-1 of this section by adding the subtotal baseline for facilities under WAC 173-446-030(2) in a future rulemaking by October 1, 2026.
- (4) **Subtotal baselines for sectors entering the program after the second compliance period.** Subtotal baselines for facilities in sectors described under WAC 173-446-030(3) must be calculated based on the facilities’ covered emissions as established in WAC 173-446-040 averaged from emissions years 2027 through 2029. Ecology must adjust the total program baseline in Table 200-1 of this section by adding the subtotal baseline for facilities under WAC 173-446-030(3) in a future rulemaking by October 1, 2028.
- (5) **Subtotal baseline adjustments for new or modified covered reporters.** Ecology will not adjust the total program baseline in Table 200-1 of this section for any new covered reporter joining the program under WAC 173-446-060.

**Table 200-1: Total Program Baseline Values**

<b>Emissions Years</b>	<b>Total Program Baseline (annual MT CO<sub>2e</sub>)</b>
2023-2026	TEMPORARY PLACEHOLDER VALUE 71,000,000 TEMPORARY PLACEHOLDER VALUE
2027-2030	Set by rule by October 1, 2026 according to subsection (3) of this section
2031 and subsequent years	Set by rule by October 1, 2028 according to subsection (4) of this section

## **WAC 173-446-210 Total program allowance budgets.**

### **(1) Calculating the total program allowance budget.**

Ecology must use the following methods for setting the total allowances in the program for each year. The total allowances in the program for each year must be in units of MT CO<sub>2</sub>e on a mass basis.

- (a) Emissions years 2023 through 2026.
  - (i) The total program allowance budget for emissions year 2023 is equal to ninety three percent (93%) of the total program baseline described in WAC 173-446-200 Table 200-1 for 2023 through 2026.
  - (ii) The total program allowance budget for 2024 through 2026 decreases annually relative to the previous year by an additional seven percent (7%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2023 through 2026.
- (b) Emissions years 2027 through 2030.
  - (i) The total program allowance budget for emissions year 2027 is equal to the 2026 total program allowance budget plus the adjustment to the total program baseline described in WAC 173-446-200 (3) reduced by an additional seven percent (7%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2027 through 2030.
  - (ii) The total program allowance budget for 2028 through 2030 decreases annually relative to the previous year by an additional seven percent (7%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2027 through 2030.
- (c) Emissions years 2031 through 2040.
  - (i) The total program allowance budget for emissions year 2031 is equal to the 2030 total program allowance budget plus the adjustment to the total program baseline described in WAC 173-446-200 (4) reduced by an additional one and nine tenths percent (1.9%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.
  - (ii) The total program allowance budget for 2032 through 2040 decreases annually relative to the previous year by an additional one and nine tenths percent (1.9%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.
- (d) Emissions years 2041 through 2050.

The total program allowance budget for 2041 through 2050 decreases annually relative to the previous year by an additional two and five tenths percent (2.5%) of the total program baseline in WAC 173-446-200 Table 200-1 for 2031 and subsequent years.

(2) **Total program allowance budget.**

Table 210-1 displays the total allowances in the program for each year using the method established in subsection (1) of this section.

(3) **Allowance allocation.**

Ecology must auction a number of allowances equivalent to the total covered emissions in MT CO<sub>2e</sub> listed in Table 210-1 for a given emissions year minus any allowances allocated in sections 220, 230, and 240, or that are withheld or removed by section 250, by xxx of the emissions year.

**Table 210-1: Total allowances in the program for each year using the method established in subsection (1) of this section.**

<b>Emissions Year</b>	<b>Total Covered Emissions (MT CO<sub>2e</sub>)</b>
2023	TEMPORARY PLACEHOLDER VALUE 66,030,000 TEMPORARY PLACEHOLDER VALUE
2024	TEMPORARY PLACEHOLDER VALUE 61,060,000 TEMPORARY PLACEHOLDER VALUE
2025	TEMPORARY PLACEHOLDER VALUE 56,090,000 TEMPORARY PLACEHOLDER VALUE
2026	TEMPORARY PLACEHOLDER VALUE 51,120,000 TEMPORARY PLACEHOLDER VALUE

**WAC 173-446-220 Distribution of allowances to Emissions-Intensive and Trade-Exposed Entities.**

(1) **Allocation baselines for EITE entities.** Use the following data source and methods to facilitate the allocation of no cost allowances to EITE entities.

- (a) Owners or operators of any EITE facility that wish to be allocated no cost allowances must submit the following information to Ecology electronically in a format specified by Ecology. The information must include all emissions years beginning with 2015 and ending in the most recent emissions year. Any EITE facility requesting no cost allowances for emissions year 2023 must submit the information by September 15, 2022. Any facility requesting no cost allowances beginning with emissions years after 2023 must submit the information concurrent with their petition as established in WAC 173-446A-040(1) or March 31<sup>st</sup> of the emissions year they request no cost allowances, whichever is sooner.

- (i) The reported GHG emissions under Chapter 173-441 WAC, including fuel use as specified in WAC 173-441-050(3)(m), and covered emissions under WAC 173-446-040 for the facility.
  - (ii) All applicable total annual facility product data, units of production, specific product, and supporting data described in WAC 173-441-050(3)(n).
  - (iii) The EITE facility's primary North American industry classification system (NAICS) code as reported under WAC 173-441-050(3)(i), or other information demonstrating the facility is classified as emissions-intensive and trade-exposed under Chapter 173-446A WAC.
  - (iv) An estimation of the EITE facility's carbon intensity baseline by dividing the 2015 through 2019 average of covered emissions from subsection (1)(a)(i) of this section by the 2015 through 2019 average of total annual product data from subsection (1)(a)(ii) of this section. The owner or operator may also include a separate calculation if they are requesting alternate years for their allocation baseline average that uses averages for the requested years.
  - (v) Any owner or operator of an EITE facility requesting the use of alternate years for their allocation baseline average must submit information supporting that there were abnormal periods of operation that materially impacted the facility during one or more years in the normal baseline period of 2015 through 2019. They must submit information supporting why the proposed alternate years are reflective of normal operation. If an owner or operator requests including an emissions year prior to 2015 in their allocation baseline, then the submission must include all information for those years. An emissions year prior to 2012 is not eligible for use as an alternate year.
  - (vi) Any owner or operator of an EITE facility requesting a mass-based baseline must submit information supporting why they are not able to feasibly determine a carbon intensity baseline based on its unique circumstances. The mass-based baseline is calculated as the 2015 through 2019 average covered emissions from subsection (1)(a)(i) of this section. The owner or operator may also include a separate calculation if they are requesting alternate years for their allocation baseline average that uses averages for the requested years.
- (b) Ecology must assign an allocation baseline by November 15, 2022 to any EITE facility that completed submitting their information under subsection (1)(a) of this section by September 15, 2022. Ecology must assign an allocation baseline within ninety calendar days of a complete submission to any EITE facility that

completed submitting their information under subsection (1)(a) of this section after September 15, 2022. The allocation baseline will be determined using the following method.

- (i) Ecology may use any of the following sources or combination of sources when assigning an allocation baseline. Ecology may adjust submitted information as necessary.
  - (A) Information submitted under subsection (1)(a) of this section,
  - (B) Information reported under Chapter 173-441 WAC,
  - (C) An assigned emissions level under WAC 173-441-086, or
  - (D) Other sources of information deemed significant by Ecology.
- (ii) Ecology must calculate a mass-based baseline for each EITE facility by averaging the 2015 through 2019 covered emissions from subsection (1)(b)(i) of this section. Ecology must also include a separate calculation if Ecology approves alternate years for the allocation baseline average under subsection (1)(b)(iv) of this section that uses averages for the approved years.
- (iii) Ecology must calculate a carbon intensity baseline for each EITE facility by dividing the 2015 through 2019 average of covered emissions from subsection (1)(b)(i) of this section by the 2015 through 2019 average total annual product data from subsection (1)(b)(i) of this section unless Ecology determines it is not feasible to determine product data for the facility based on its unique circumstances. Ecology must also include a separate calculation if Ecology approves alternate years for the allocation baseline average under subsection (1)(b)(iv) of this section that uses averages for the approved years. It is feasible to determine product data for any facility that:
  - (A) Reports product data as specified in WAC 173-441-050(3)(n), or
  - (B) Ecology is capable of determining product data as specified in WAC 173-441-050(3)(n) using any of the data sources specified in subsection (1)(b)(i) of this section.
- (iv) Ecology may allow the use of alternate years for an EITE facility's allocation baseline average if Ecology determines there were abnormal periods of operation that materially impacted the facility during one or more years in the normal baseline period of 2015 through 2019. An emissions year prior to 2012 is not eligible for use as an alternate year.

- (v) The EITE facility's allocation baseline is equal to its carbon intensity baseline as calculated under subsection (1)(b)(iii) of this section unless Ecology is unable to perform the calculation in that subsection. If Ecology is unable to assign a carbon intensity baseline, then the allocation baseline is the mass-based baseline calculated in subsection (1)(b)(ii) of this section. The allocation baseline is based on the separate calculation described in subsections (1)(b)(ii) or (iii), as applicable, that accounts for alternate years if Ecology approves alternate years for the allocation baseline average under subsection (1)(b)(iv) of this section.
  - (A) Ecology must use the following methods, in order of precedence, to set an allocation baseline for any EITE facility joining the program after emissions year 2023 under section 060 of this chapter. Ecology must use 2015 through 2019 emissions years whenever possible based on the data sources listed in subsection (1)(b)(i) of this section and may not use an emissions year prior to 2012. Ecology may exclude emissions years that contain abnormal periods of operation. Ecology must consider the products and criteria pollutants being produced by the facility, as well as the local environmental and health impacts associated with the facility when setting the allocation baseline. For a facility that is built on tribal lands or is determined by Ecology to impact tribal lands and resources, Ecology must consult with the affected tribal nations.
    - (I) Use the carbon intensity baseline whenever GHG emissions and product data are available for three or more years.
    - (II) If at least three years of GHG emissions data are available, use the mass-based baseline for the available years until three years of GHG emissions and product data are available. Switch to the carbon intensity baseline as described in subsection (1)(b)(v)(A)(I) of this section based on the three or more available data years once available. This switch should not occur until the next compliance period.
    - (III) If less than three years of GHG emissions data are available, Ecology must estimate a mass-based baseline for the EITE facility until Ecology is able to calculate a carbon intensity baseline for the facility as described in subsection (1)(b)(v)(A)(I) of this section. This switch should not occur until the next compliance period. Ecology may base the mass-based baseline on Ecology's GHG emissions estimates for the facility, GHG emissions from a best in class facility in the same sector, or actual GHG emissions from the facility, but the mass-based baseline must not exceed the

maximum measured actual GHG emissions from the facility.

- (B) Except as described in subsection (1)(b)(v)(A) of this section, the owner or operator of an EITE facility using a mass-based baseline, must submit a request to Ecology if they want to later convert to a carbon intensity baseline.
  - (C) Ecology may not convert the EITE facility to a carbon intensity baseline during the first three compliance periods except as described in subsection (1)(b)(v)(A) of this section or when the EITE facility reports a primary NAICS code beginning with 3364 under Chapter 173-441 WAC. A facility reporting a primary NAICS code beginning with 3364 under Chapter 173-441 WAC that uses a mass-based baseline may not convert to a carbon intensity baseline until the next compliance period.
  - (D) Prior to the beginning of a new compliance period, Ecology may make an upward or downward adjustment in the allocation baseline for an EITE facility effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions or product data from:
    - (I) Revised reports under WAC 173-441-050(7) for any emissions year used in determination of the allocation baseline,
    - (II) A new assigned emissions level under WAC 173-441-086 for any emissions year used in determination of the allocation baseline, or
    - (III) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.
- (2) **Total no cost allowances allocated to EITE facilities.** No cost allowances allocated to an EITE facility for a given emissions year are determined using the methods in this subsection.
- (a) EITE facilities are awarded no cost allowances according to the reduction schedule: 100% of the facility's allocation baseline for each year during the first compliance period, 97% of the facility's allocation baseline for each year during the second compliance period, and 94% of the facility's allocation baseline for each year during the third compliance period.
  - (b) For a facility using a carbon intensity allocation baseline, the distribution of no-cost allowances for a given emissions year is determined using eq. 220-1.



$$\text{NoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \text{InitialNoCostAllowances}_t + \text{TrueUp}_t \text{ Eq 220-1}$$

Where:

$\text{NoCostAllowances}_t$  = number of allowances allocated for emissions year  $t$

$\text{InitialNoCostAllowances}_t$  = amount of allowances initially allocated for emissions year  $t$ . This amount is calculated using data from the previous emissions year,  $t-1$ , according to Eq 220-2

$\text{TrueUp}_t$  = amount of true-up allowances allocated to account for actual production from emissions year  $t$ , determine according to Eq 220-3

$t$  = emissions year for which the allocation occurs

$$\text{InitialNoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \text{CarbonIntensityAllocationBaseline} \times \text{Production}_{t-1} \times \text{ReductionSchedule}_t \text{ Eq 220-2}$$

Where:

$\text{CarbonIntensityAllocationBaseline}$  = carbon intensity baseline determined pursuant to subsection (1)(b) of this section

$\text{Production}_{t-1}$  = total annual facility product data for the emissions year one year prior to year  $t$  from subsection (1)(a)(ii) of this section

$\text{ReductionSchedule}_t$  = reduction percentage corresponding to the compliance period for emissions year  $t$ , as provided in subsection (2)(a) of this section

$t$  = Emissions year for which the allocation occurs

$$\text{TrueUp}_t \text{ (MT CO}_2\text{e)} = (\text{CarbonIntensityAllocationBaseline} \times \text{Production}_t \times \text{ReductionSchedule}_t) - \text{InitialNoCostAllowances}_t \text{ Eq 220-3}$$

Where:

$\text{CarbonIntensityAllocationBaseline}$  = carbon intensity baseline determined pursuant to subsection (1)(b) of this section

$\text{Production}_t$  = total annual facility product data for the emissions year  $t$  from subsection (1)(a)(ii) of this section

$\text{ReductionSchedule}_t$  = reduction percentage corresponding to the compliance period for emissions year  $t$ , as provided in subsection (2)(a) of this section

$\text{InitialNoCostAllowances}_t$  = determined according to Eq 220-2

$t$  = Emissions year for which the allocation occurs

- (i) The true up calculation will be done after receipt and verification of an EITE facility's production as described in WAC 173-441-085. If the result of the calculation in Equation 220-3 is greater than zero, the resulting number of allowances will be allocated to the applicable EITE facility. Allowances allocated to facilities for this purpose will be from future vintages.

- (ii) If the result of the calculation in Equation 220-3 are negative the resulting number of allowances will be subtracted from the next allocation of allowances in the next emission year.
  - (iii) If the results of the calculation in Equation 220-3 are zero, no further action will be taken.
- (c) For a facility using a mass-based allocation baseline, the distribution of no-cost allowances for a given emissions year is determined using eq. 220-4.

$$\text{NoCostAllowances}_t \text{ (MT CO}_2\text{e)} = \text{Mass-based allocation baseline} \times \text{ReductionSchedule}_t \quad \text{Eq 220-4}$$

Where:

Mass-based allocation baseline = determined pursuant to subsection (1)(b) of this section

ReductionSchedule<sub>t</sub> = reduction percentage corresponding to the compliance period for the given emissions year, as provided in subsection (2)(a) of this section

- (d) Adjustments to the number of no cost allowances calculated for an EITE facility according to Eq 220-1 and Eq 220-4 may be made by Ecology according to the following:
- (i) Ecology will adjust no cost allowance allocation and credits to an EITE facility to avoid duplication with any no cost allowances transferred pursuant to WAC 173-446-230 and WAC 173-446-240, if applicable.
  - (ii) Prior to the beginning of either the second, third, or subsequent compliance periods, Ecology may make an upward adjustment in the next compliance period's reduction schedule for an EITE facility based on the facility's demonstration to Ecology that additional reductions in carbon intensity or mass emissions are not technically or economically feasible. Ecology may not adjust the reduction schedule above the first compliance period reduction schedule. Owners or operators of any EITE facility that wish to have an upward adjustment of their reduction schedule must submit the following information to Ecology electronically in a format specified by Ecology. The information must be submitted by March 31 of the year prior to the start of the next compliance period in which the facility wishes to have an upward adjustment under this subsection. Ecology will make a determination on adjustments based on information contained in the facility's submission and information listed in (1)(b)(i) of this section. The submission must include at least one of the following:
    - (A) Information describing changes at the facility to the manufacturing process that have a material impact on emissions and data showing

a significant change in the emissions use or emissions attributable to the manufacture of an individual good or goods at the facility.

- (B) Information showing significant changes to the EITE facility's external competitive environment that result in a significant increase in leakage risk.
- (C) Data showing the facility's carbon intensity has been materially affected due to abnormal operating periods so that these abnormal operating periods are either excluded or otherwise considered in the establishment of the compliance period carbon intensity benchmarks.
- (D) Ecology may allocate additional no cost allowances to a facility with a primary North American Industry Classification System code beginning with 3364 reported under WAC 173-441 that is using a mass-based allocation baseline in order to accommodate an increase in production that increases its emissions above the baseline on a basis equivalent in principle to those awarded to entities utilizing a carbon intensity allocation baseline. Owners or operators of an EITE facility that wish to be allocated additional no cost allowances under this subsection must submit the following information to Ecology electronically in a format specified by Ecology. The information must be submitted by March 31 of the year following the emissions year in which the facility wishes to be allocated additional allowances under this subsection. Ecology will make a determination on adjustments based on information contained in the facility's submission and information submitted in (1)(b)(i) of this section.
  - (I) Data from the facility showing an increase in production that increases its emissions above baseline.
  - (II) Projected production data if the facility wishes to be allocated ongoing additional no cost allowances.
- (E) Ecology will withhold or withdraw the relevant share of no cost allowances allocated to a facility that ceases production in the state and becomes a closed facility. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.
- (F) A facility that curtails all production and becomes a curtailed facility may retain no cost allowances allocated to the facility, but the allowances cannot be traded, sold, or transferred and the facility is still subject to the emission reduction requirements specified in this section. An owner or operator of a curtailed

facility may transfer the allowances to a new operator of the facility that will be operated under the same North American industry classification system code(s). If the curtailed facility becomes a closed facility, then all unused allowances will be transferred to the emissions containment reserve. A curtailed facility is not eligible to receive free allowances during a period of curtailment. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.

- (e) An EITE facility must continue to be in compliance with Chapter 173-441 WAC and this chapter to continue receiving no cost allowances.

**WAC 173-446-230 Distribution of allowances to electric utilities.**

- (1) **Total no cost allowances allocated to electric utilities.** Allowances allocated to electrical utilities for a compliance period are based on the cost burden effect of the program. Ecology will use the following method to determine how cost burden and its effect will be used to allocate allowances to each electric utility for each emissions year.
  - (a) Ecology will use utility-specific forecasts that provide retail electric load.
  - (b) Ecology will determine the generation resource fuel type forecasted to be used to provide retail electric load for a utility for the compliance period. This determination will be based on the following sources, in the order necessary to most accurately determine the resource mix that will be used by that electric utility to comply with the clean energy transformation act, RCW 19.405.
    - (i) The clean energy implementation plan for that utility that is approved and submitted pursuant to chapter 19.405 RCW, the Washington clean energy transformation act.
    - (ii) An approved integrated resource plan, or supporting materials for that plan, that is consistent with or used for the clean energy implementation plan.
    - (iii) Another source that is consistent with a forecast approved by the appropriate governing board or the utilities and transportation commission of each utility's supply and demand.
  - (c) Ecology will use the following emission factors to determine the emissions associated with the projected generation mix.
    - (i) For generation that is projected to be served by natural gas the factor will be XXXX per MWh.

- (ii) For generation that is projected be served by coal the factor will be XXX per MWh, unless that generation is coal transition power as defined in RCW 80.80.010 in which case the factor is zero.
- (iii) For generation identified as a non-emitting or a renewable resource in the clean energy implementation plan, use an emission factor of zero.
- (iv) For any generation from which the fuel type source is unknown or unknowable, and for unspecified market purchases, use the unspecified emission factor using the procedures identified in WAC 173-444-040.

- (d) The cost burden effect from the emissions for each utility will be calculated according to equation 230-1. The resulting total emissions represents the cost burden effect for the utility.

$$\text{Cost Burden Effect} = (\text{Gen}_{NG} \times \text{EF}_{NG}) + (\text{Gen}_{Coal} \times \text{EF}_{Coal}) + (\text{Gen}_{NE,RE} \times 0) + (\text{Gen}_{Remaining} \times \text{EF}_{Unspecified}) \quad \text{Eq 230-1}$$

Where:

Gen = Generation of natural gas (NG), coal, and non-emitting and renewable resource (NE, RE), and remaining generation

EF = Emission factor for natural gas (NG), coal, and unspecified electricity

- (e) One allowance will be allocated for each metric ton of emissions of the cost burden effect for each electric utility for each emissions year as projected through this process.

- (2) Total allowances allocated for the purposes of recognizing voluntary renewable electricity purchases. Ecology will allocate allowances to a voluntary renewable electricity reserve account pursuant to RCW 70A.65.090 (9) and (11). The number of allowances allocated to the voluntary renewable electricity reserve account for the first compliance period will be 1/3 of one percent (0.33%) of the total program budget for each year as provided in Table 210-1.
- (3) If a facility is identified by Ecology as EITE under Chapter 173-446A WAC, unless allowances have been otherwise allocated for electricity-related emissions to the facility under WAC 173-446-220 or to a consumer-owned utility under this section, Ecology will allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the EITE facility in an amount equal to the forecasted emissions for electricity consumption for the facility for the compliance period, consistent with and only if the methods in (2) above have not already accomplished this.
- (4) A consumer-owned utility that is party to a contract that meets the following conditions will be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party:
  - (a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

- (b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.
- (5) Allowance consignment. Allowances allocated at no cost to consumer-owned and investor-owned electric utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. The benefits of all allowances consigned to auction must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers.

**WAC 173-446-240 Distribution of allowances to natural gas utilities.**

- (1) **Allocation baselines for suppliers of natural gas.** Use the following data source and methods to facilitate the allocation of no cost allowances to suppliers of natural gas.
  - (a) Ecology will assign an allocation baseline to each supplier of natural gas using the methods for subtotal baselines established in WAC 173-446-200(2)(c) for emissions years 2015 through 2019. Allowance allocation is based on the supplier of natural gas's allocation baseline.
  - (b) A supplier of natural gas that is a covered party under WAC 173-446-030(1) must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through 2021 by March 31, 2022 in order to qualify for no cost allowances. A supplier of natural gas that becomes a covered party under WAC 173-446-030(1) or WAC 173-446-060 after 2023 must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through the current reporting year by the reporting deadline in WAC 173-441-050 for the year they become a covered reporter in order to qualify for no cost allowances.
  - (c) Prior to the beginning of a new compliance period, Ecology may make an upward or downward adjustment in the allocation baseline for a supplier of natural gas effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions from:
    - (i) Revised reports under WAC 173-441-050(7) for emissions years used in determination of the allocation baseline;
    - (ii) A new assigned emissions level under WAC 173-441-086 for emissions years used in determination of the allocation baseline, or
    - (iii) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.

- (2) **Total no cost allowances allocated to natural gas utilities.** The following method establishes the total no cost allowances allocated to a given suppliers of natural gas for a given emissions year.
- (a) Emissions years 2023 through 2030.
    - (i) The suppliers of natural gas's total no cost allowances for emissions year 2023 is equal to ninety three percent (93%) of their allocation baseline.
    - (ii) The suppliers of natural gas's total no cost allowances for 2024 through 2030 decreases annually relative to the previous year by an additional seven percent (7%) of their allocation baseline.
  - (b) Emissions years 2031 through 2050.
    - (i) The suppliers of natural gas's total no cost allowances for emissions year 2031 is equal to their 2030 total program allowance budget reduced by an additional two and three tenths percent (2.3%) of their allocation baseline.
    - (ii) The suppliers of natural gas's total no cost allowances for 2032 through 2050 decreases annually relative to the previous year by an additional two and three tenths percent (2.3%) of their allocation baseline.
  - (c) A supplier of natural gas must continue to be in compliance with Chapter 173-441 WAC and this chapter to continue receiving no cost allowances. No cost allowances are not provided during periods of closure or curtailment.
- (3) **No cost allowances consigned to auction for the benefit of customers.** Use the following method to determine how to allocate the no cost allowances specified in subsection (2) of this section for each supplier of natural gas.
- (a) No cost allowances must be consigned to auction for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of this chapter according to X.
  - (b) Sixty-five percent (65%) of the supplier of natural gas's no costs allowances specified in subsection (2) of this section must be consigned to auction for the benefit of customers for emissions year 2023. The percentage of no cost allowances consigned to auction for the benefit of customers is increased five percent (5%) each emissions year until one hundred percent (100%) of no cost allowances are consigned to auction for the benefit of customers beginning with emissions year 2030.
  - (c) All no cost allowances for the supplier of natural gas specified in subsection (2) of this section that are not consigned to auction in subsection (3)(b) of this section must be deposited in the supplier of natural gas's holding account.

**WAC 173-446-250 Adjustments to allowance budget.**

- (1) The total pool of allowances available to registered entities through the allowance budget established in WAC 173-446-210, through the auction process in WAC 173-446-300, and through other means may be modified using the methods and for the reasons identified in this section.
- (2) **Methods for reducing allowances from the allowance budget.** When Ecology is required or elects to remove and retire allowances from the total allowance pool, Ecology will do so using the methods listed below in the following order:
  - (a) Remove and retire allowances from the pool of allowances that have been left unsold at auction and are available for reintroduction to auction pursuant to WAC 173-446-300(5).
  - (b) Reduce the number of allowances from the next year’s planned annual allowance budget, by removing and retiring a portion of that planned allowance total.
  - (c) Remove and retire allowances from being offered for sale at a subsequent auction that is at least 90 days from the time of a determination that this option will be chosen.
- (3) **Adjustments for EITE actual production.** The following method will be used to update the pool of available allowances based on the actual production of each EITE facility for each emission year.
  - (i) The calculation to determine allowance pool adjustment is the sum of all the  $TrueUp_t$  allowances calculated according to Eq 220-3 for all EITE facilities receiving no cost allowances during a given year:  
$$\text{Allowance adjustment (MT CO}_2\text{e)} = \sum_{i=1}^n TrueUp_t \text{ Eq 250-1}$$

Where:  
 $TrueUp_t$  = determined according to Eq 220-3  
 $t$  = emissions year for which the allocation occurs  
 $n$  = total EITE facilities receiving no cost allowances in emissions year  $t$
  - (ii) If the result of the calculation in Equation 250-1 is greater than zero, then additional allowances will be added to the pool of available allowances .
  - (iii) If the result of the calculation in Equation 250-1 is negative the resulting number of allowances will be subtracted from the pool of available allowances using the methods in . subsection (2).
  - (iv) If the result of the calculation in Equation 250-1 is zero, no further action will be taken.
- (4) **Adjustments for the use of offsets as compliance instruments.** Ecology will use the following process to remove and retire allowances from the total pool of allowances to account for the use of offset credits used for compliance in accordance with RCW 70A.65.170 (5). This process will be completed by February 15 of each year.
  - (i) The calculation to determine the applicable number of offset credits is as follows:  
$$\text{Offset credits used} = \text{Offsets} - \text{Invalidations} + \text{Reversals (Eq 250-2)}$$



Offsets = number of offset credits used as compliance instruments for the prior year.

Invalidations = number of offset credits invalidated by Ecology that were used in the prior year (if any)

Reversals = number of forestry offset credits moved from the forest buffer account and used for the purposes of unintentional reversal in the prior year (if any)

- (ii) If the number of offset credits calculated by Equation 250-2 is greater than zero, the total pool of allowances will be reduced using the methods in subsection (2).

- (5) **Adjustments to ensure consistency with proportional GHG emission limits.** To ensure that the total pool of allowances remains consistent with the annual allowance budgets established in WAC 17-446-210 and the requirements of RCW 70A.65.060 and 70A.65.070, Ecology may take the following actions:
  - (a) Reduce the total pool of program allowances by removing and retiring allowances using the methods in subsection (2) of this section if the analysis of the state's progress toward the greenhouse gas limits required in RCW 70A.45.020 indicates insufficient progress toward those limits based on the proportion of covered emissions in the program relative to total statewide greenhouse gas emissions.
  - (b) This determination will be made within 2 months after the submittal of the progress report required by RCW 70A.45.020 (2) to the legislature, or the program progress report required by RCW 70A.65.060 (5).
  - (c) If this determination finds that Washington is meeting or exceeding the expected proportionate progress toward the limits based on the covered emissions in the program no further action will be taken.
- (6) **Adjustments for voluntary renewable electricity.** Ecology will remove and retire allowances from the voluntary renewable electricity reserve account in recognition of the generation of renewable electricity that is directly delivered to Washington and used for the purposes of voluntary renewable electricity programs by using the following methods.
  - (a) Electricity generation eligible to be considered voluntary renewable electricity generation for the purposes of this section must:
    - (i) Be directly delivered to a point of delivery in Washington.
    - (ii) Meet the definition of renewable resource in RCW 19.405.020.
    - (iii) Meet at least one of the following criteria:
      - (A) Be registered in the Western Renewable Energy Generation System (WREGIS), or,
      - (B) Be capable of creating renewable energy credits in the WREGIS system through aggregation or other means, or,
      - (C) Have through some other means received approval from Ecology .
    - (iv) Have associated contract or settlement documentation demonstrating the sale to and purchase of the renewable energy credits associated with the generation of the electricity to the voluntary renewable electricity end-user or entity purchasing on behalf of the end-user.

- (b) Renewable energy credits for eligible voluntary renewable generation must:
  - (i) Represent generation that occurred during the year for which allowance retirement is requested.
  - (ii) Be retired for the purposes of voluntary renewable energy before the submittal of the request to retire allowances, and,
  - (iii) Not be sold or used to meet any other mandatory requirements in Washington or any other jurisdiction, including renewable portfolio standards or clean electricity standards in Washington ((RCW 19.285.040 and RCW 19.405, respectively), or similar laws or regulations in any other jurisdiction.
- (c) A request for the retirement of allowances may be initiated, using a method and form approved by Ecology, by any of the following:
  - (i) The owner or operator of the eligible voluntary renewable generation,
  - (ii) The owner or purchaser of the renewable energy credit associated with the eligible generation, or,
  - (iii) The end user that claims the voluntary renewable electricity generated by eligible generation.
- (d) A request for the retirement of allowances in recognition of voluntary renewable electricity generation must also be accompanied by the following attestation:
  - (i) Submit a signed attestation to Ecology as follows: “I certify under penalty of perjury of the laws of the State of Washington that I have not authorized use of, or sold, any renewable electricity credits or any claims to the emissions, or lack of emissions, for electricity for which I am seeking Ecology allowance retirement, in any other voluntary or mandatory program.”
  - (ii) Submit a signed attestation to Ecology as follows: “I understand I am voluntarily participating in the Washington State Greenhouse Gas Cap-and-Invest Program under RCW 70A.65 and WAC 173-446, and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this voluntary renewable electricity program and subject myself to the jurisdiction of Washington State as the exclusive venue to resolve any and all disputes.”
- (e) Allowances will be retired annually from the Voluntary Renewable Electricity Reserve Account for the preceding year’s eligible generation in order of increasing vintage year until the account has been exhausted. For the year in which available allowances are exhausted, allowance retirement will be pro-rated among all eligible generation.
- (f) Allowance retirement. The number of allowances retired from the voluntary renewable electricity reserve account for eligible generation in a given year are calculated as follows:

$$VRE_{\text{retired}} = MWh_{VRE} \times EF_{\text{unspecified}}$$

Where:

“VRE<sub>retired</sub>” is the number of allowances to be retired from the Voluntary Renewable Electricity Reserve Account for the eligible generation rounded down to the nearest whole ton;

“MWh<sub>VRE</sub>” is the amount of voluntary renewable electricity, in MWh, that is generated in the previous year by the eligible generation, and

“EF<sub>unspecified</sub>” is the default CO<sub>2e</sub> emissions factor for unspecified power, based on the methods provided in WAC 441- XXX.

- (g) Excess allowance. A surplus of allowances in the Voluntary Electricity Reserve Account will be addressed in two ways.
  - (i) If not all allowances allocated to the reserve account from an allowance budget year are retired, they will be held in the reserve account and available for retirement in subsequent budget years.
  - (ii) If the Voluntary Electricity Reserve Account surplus grows for three or more consecutive years, and if forecasts of voluntary renewable electricity purchases project a decrease or lesser increase of voluntary renewable electricity purchases than the corresponding increase in the account, then Ecology may reduce the surplus of allowances in the reserve account, using the methods identified in subsection (2) of this section.

## ALLOWANCE AUCTIONS

### WAC 173-446-300 Auctions of current and prior year allowances

- (1) Each year starting in 2023, Ecology shall submit allowances for the purposes of an auction to be held on four separate occasions, each consisting of a single round of bidding.
- (2) Only the following allowances shall be auctioned:
  - (a) Allowances reserved by Ecology for the purpose of auctions.
  - (b) Allowances consigned to auction by electric power entities and natural gas utilities as follows.
    - (i) During the first compliance period, electric utilities may choose whether or not to consign no cost allowances to auction, and if so, how many allowances to consign. All proceeds from the auction of allowances consigned by electric power entities will be used for the benefit of ratepayers.
    - (ii) Natural gas utilities must consign a portion of their no cost allowances to auction. All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act. The portion of no cost allowances natural gas utilities must consign to auction is:
      - (A) In 2023, 65 percent of their no cost allowances

- (B) In 2024, 70 percent of their no cost allowances
  - (C) In 2025, 75 percent of their no cost allowances
  - (D) In 2026, 80 percent of their no cost allowances
  - (E) In 2027, 85 percent of their no cost allowances
  - (F) In 2028, 90 percent of their no cost allowances
  - (G) In 2029, 95 percent of their no cost allowances
  - (H) In 2030, 100 percent of their no cost allowances
- (3) At each auction, Ecology shall submit the percentage of current and prior vintage allowances that Ecology considers appropriate.
  - (4) At each auction, consigned allowances shall be sold first. If at the end of an auction, any consigned allowances remain unsold, they shall be retained to be offered for sale in the subsequent auction.
  - (5) If, at the end of an auction, any of the allowances submitted to auction by Ecology remain unsold, Ecology shall hold them for submittal in a subsequent auction as the settlement price for allowances has been above the auction floor price for two auctions. If the allowances remain unsold for 24 months, Ecology shall place them in the emissions containment reserve.

**WAC 173-446-310 Public Notice**

- (1) At least 60 days before an auction, Ecology shall provide notice of the auction to the Environmental Justice Council and to the public in the manner Ecology considers appropriate, setting out the following information:
  - (a) The day on which, and time period during which, bidding in the auction or sale may take place.
  - (b) The location or internet address at which the auction or sale will be held.
  - (c) A summary of the requirements of this rule relating to the auction or sale.
  - (d) A summary of the auction process.
  - (e) For each allowance being offered for sale at the auction, the vintage year, if any, of the allowance, and
  - (f) The number of allowances of each vintage year being offered for sale at the auction.
- (2) Subject to subsection (3), Ecology may, at any time after providing a notice under subsection (1), change the information included in the notice by providing notice of the change in such manner as Ecology considers appropriate.
- (3) The day on which bidding in the auction or sale may take place may be changed by a maximum of four business days, which four business days may be either before or after the day specified in the original notice of the auction.
- (4) Subject to subsections (5) and (6), if the day on which bidding in the auction may take place is changed, all requirements under WAC 173-446 in respect of which there is a time limit determined in relation to the day on which bidding takes place shall be, as of the day on which the notice of the change is provided by Ecology, determined in relation to the new day as specified in the notice of change.
- (5) Subsection (4) does not apply with respect to a requirement if, before the day on which Ecology provides a notice of a change, the time limit in respect of the requirement expired.

- (6) Despite subsection (4), if a registered entity has given a bid guarantee in accordance with WAC 173-446-325 for the purpose of bidding in an auction and the day of the auction is subsequently changed, the registered entity is not required to provide a new bid guarantee that is valid for at least 26 days following the revised day of the auction.

**WAC 173-446-315 Registration for an Auction**

- (1) A registered entity must apply to Ecology before bidding in each auction. To apply to bid in an auction each registered entity must:
  - (a) No later than 40 days before the day of the auction, update any information required to be updated as a condition of the participant's registration.
  - (b) No later than 30 days before the day of the auction, submit the following information to Ecology:
    - (i) The name, contact information and holding account number of the registered entity.
    - (ii) The names and identification numbers of all designated account representatives of the registered entity.
    - (iii) The name and contact information of any consultant that provides advice related to the auction participant's bidding strategy and, if applicable, the name of the consultant's employer.
    - (v) The form of bid guarantee to be given.
  - (c) No later than 12 days before the day of the auction, submit a bid guarantee meeting the requirements of WAC 173-446-325
- (2) If the registered entity has retained a Cap and Invest Consultant or Advisor regarding auction bidding strategy the registered entity must:
  - (a) Ensure against the Consultant or Advisor transferring the registered entity's information to other auction participants or coordinating the bidding strategy among participants.
  - (b) Inform the Consultant or Advisor of the prohibition on sharing information with other auction participants and ensure the Consultant or Advisor has read and acknowledged the prohibition under penalty of perjury.
- (3) No later than 15 days before the day of an auction, a Cap-and-Invest Consultant or Advisor advising on bidding strategy must provide to Ecology the following information:
  - (a) Names of the registered entities participating in the Cap-and-Invest Program that are being advised;
  - (b) Description of the advisory services being performed; and
  - (c) Assurance under penalty of perjury that the advisor is not transferring to or otherwise sharing information with other auction participants.
- (4) Subject to subsection (5), upon receiving an application from a registered entity that meets the requirements set out in subsection (1), Ecology shall permit the registered entity to bid in the auction.
- (5) Ecology shall refuse permission to bid in an auction if any of the following circumstances apply:

- (a) The registered entity has given false or misleading information in the application.
  - (b) The registered entity has failed to disclose information required under subsection (1).
  - (c) The registered entity has disclosed auction-related information in violation of WAC 173-446-317.
  - (d) The registered entity's cap and invest accounts are subject to conditions under this rule or imposed by Ecology that prohibit participation in auctions or otherwise prevent allowances or credits from being transferred to the registered entity's cap and invest accounts.
  - (e) A bid guarantee in the form of a wire transfer that has been submitted by the registered entity has not been deposited into an escrow account established by the financial services administrator or the institution indicated by the financial services administrator.
- (6) Any registered entity requesting permission to participate in an auction or participating in an auction must provide Ecology on request within 5 days any additional information concerning its participation in the auction.

**WAC 173-446-317 Auctions - Prohibited Actions**

- (1) To prevent bidder collusion and minimize the potential for market manipulation, a registered entity registered to participate in an auction may not release or disclose any bidding information including, but not limited to:
  - (a) Intent to participate or refrain from participating in an auction
  - (b) Auction approval status
  - (c) Intent to bid
  - (d) Bidding strategy
  - (e) Bid price or bid quantity
  - (f) Information on the bid guarantee provided to the financial administrator
- (2) No party shall coordinate the bidding strategy of more than one auction participant.
- (3) Any registered entity requesting permission to participate in an auction or participating in an auction must provide Ecology on request and within 5 days any additional information concerning its participation in the auction.

**WAC 173-446-320 Suspension and revocation of registration**

- (1) Ecology may revoke permission to bid in an auction if the registered entity has:
  - (a) Provided false or misleading facts;
  - (b) Withheld material information that could influence Ecology's decision regarding registration for the auction;
  - (c) Violated any part of the auction rules;
  - (d) Violated registration requirements;
  - (e) Coordinated bidding strategy of more than one auction participant in violation of WAC 173-446-317(2); or
  - (f) Disclosed auction-related information in violation of WAC 173-446-317(1).

- (2) The restrictions on disclosures in WAC 173-446-317 do not apply to a disclosure between registered entities who are members of the same direct corporate association.
- (3) A registered entity is exempt from the prohibition on coordinating bidding strategies in WAC 173-446-317(2) if the coordination is with other registered entities with whom the registered entity is in a direct corporate association.
- (4) If any of the information provided by a registered entity under WAC 173-446-120 changes during the period beginning 39 days before the auction and ending on the day of the auction, the person is prohibited from bidding in the auction.

#### **WAC 173-446-325 Bid guarantee**

- (1) Each registered entity must provide a bid guarantee for the purpose of bidding in an auction. The bid guarantee must meet the following criteria:
  - (a) It must be in US dollars.
  - (b). It must be valid for at least 26 days following the day of the auction or sale.
  - (c) It must be one or a combination of the following and must be given in a form and manner approved by Ecology:
    - (i) Cash in the form of a wire transfer.
    - (ii) An irrevocable letter of credit; or
    - (iii) A bond.
  - (d) All bid guarantees must be in a form that may be accepted by the financial services administrator consistent with U.S. banking laws and bank practices.
    - (i) If the bid guarantee is a wire transfer, it must be deposited in an escrow account of the financial services administrator or of the institution indicated by the financial services administrator.
    - (ii) If the bid guarantee is an irrevocable letter of credit,
      - (A) it must be made payable to the financial services administrator, and
      - (B) it must be payable within three business days of a payment request.
  - (e). The bid guarantee must be for an amount that is greater than or equal to the registered entity's proposed maximum bid value, as determined under subsection (2).
- (2) The registered entity's proposed maximum bid value for an auction is determined as follows:
  - (a) For each bid price proposed by the registered entity, multiply the bid price by the number of allowances that the registered entity proposes to purchase at that bid price or at a higher bid price.
  - (b) The highest value calculated under subsection (a) is the proposed maximum bid value.

#### **WAC 173-446-330 Purchase limits**

A registered entity shall comply with the following rules for purchasing allowances available at an auction:

- (1) A covered entity or opt-in entity that is not a member of a direct corporate association shall not purchase more than 10 percent of the allowances available.
- (2) A general market participant that is not a member of a direct corporate association shall not purchase more than 4 percent of the allowances available.
- (3) A general market participant that is not a member of a direct corporate association may not own in aggregate more than 10 percent of the total allowances issued in a calendar year.
- (4) For purposes of auction purchase limits, all members of a direct corporate association are considered to be a single party subject to the purchase limits in (1), (2), and (3). A registered entity that is a member of a direct corporate association shall ensure that the purchase limit set out in subsection (1) is allocated among the members of the direct corporate association.
- (5) If the direct corporate association mentioned in subsection (4) includes a general market participant, the allocation under subsection (4) must be carried out in such a manner as to ensure the rule set out in subsection (6) is also complied with.
- (6) A general market participant that is a member of a direct corporate association shall ensure that the purchase limits set out in subsections (2) and (3) are allocated among all members of the direct corporate association who are general market participants.
- (7) No registered entity that is a member of a direct corporate association shall purchase more than the share of the purchase limit allocated to the registered entity under this section.

**WAC 173-446 335 Auction floor price and Auction ceiling price**

- (1) The auction floor price for 2023 shall be xxx.
- (2) The auction floor price for a year after 2023 shall be the auction floor price for the prior calendar year increased annually by 5 percent plus the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for All Urban Consumers.
- (3) Beginning in 2023, on the first business day in December of each year, Ecology shall announce the floor price for the next year.
- (4) The auction ceiling price shall be x for 2023.
- (5) The auction ceiling price for a year after 2023 shall be the auction ceiling price for the prior calendar year increased annually by 5 percent plus the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for All Urban Consumers.
- (6) Beginning in 2023, on the first business day in December of each year, Ecology shall announce the ceiling price for the next year.

**WAC 173-446-340 Emissions containment reserve trigger price**

- (1) The emissions containment reserve trigger price for 2023 shall be xxx.
- (2) The emissions containment reserve trigger price for a year after 2023 shall be the emissions containment trigger price for the prior calendar year increased annually by 5 percent plus the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for All Urban Consumers.



- (3) Beginning in 2023, on the first business day in December of each year, Ecology shall announce the emissions containment trigger price for the next year.

**WAC 173-446-345 Administration of Auction: Lots**

Ecology shall divide allowances that are to be auctioned into lots in accordance with the following rules:

- (1) Each lot, other than the final lot for each vintage, shall consist of 1,000 allowances.
- (2) The final lot of each vintage may consist of fewer than 1,000 allowances if fewer than 1,000 allowances remain once all other allowances have been divided into lots of 1,000.
- (3) Each lot must consist of only one vintage of allowances.

**WAC 173-446-350 Bids**

- (1) A registered entity must include the following in a bid submitted in an auction:
  - (a) The bid price, in dollars and whole cents.
  - (b) The number of lots that the participant wishes to purchase.
- (2) Each bid must be sealed and submitted in the form approved by Ecology.
- (3) A participant may submit more than one bid in an auction or sale.
- (4) After the period of time for bidding has concluded, Ecology shall reject bids or portions of bids of a registered entity if acceptance of all of the registered entity's bids would result in contravention of the registered entity's holding limit or purchase limit.
- (5) Ecology shall reject bids or portions of bids as noted in (4), starting with the registered entity's lowest bid price and continuing in increasing order by bid price, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit or purchase limit.

**WAC 173-446-353 Determination of actual maximum bid value**

- (1) Before accepting any bids, Ecology shall determine whether each registered entity's actual maximum bid value, as determined under subsection (2), is greater than the registered entity's bid guarantee.
- (2) The registered entity's actual maximum bid value is determined as follows:
  - (a) For each bid price included in the registered entity's bids, multiply the bid price by the number of allowances that the registered entity proposed to purchase at that bid price or at a higher bid price.
  - (b) The highest value calculated under subsection (a) is the actual maximum bid value.

**WAC 173-446-355 Maximum bid value in excess of bid guarantee**

- (1) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, Ecology shall remove from the registered entity's bids enough lots such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

- (2) If Ecology has removed lots under subsection (1), each removed lot of allowances shall be considered as a new bid at each valid bid price in descending order, between
  - (a) the bid price at which the actual maximum bid value was greater than the registered entity's bid guarantee; and
  - (b) the lowest bid price.
- (3) For the purposes of subsection (2), a bid price is a valid bid price if that registered entity's actual maximum bid value at that bid price would not exceed the value of that participant's bid guarantee or the registered entity's holding limit or purchase limit.
- (4) The registered entity is deemed to bid on the removed lots at the first valid bid price between the prices mentioned in subsections (2) (a) and (b) that would result in the registered entity's actual maximum bid value being less than or equal to the value of the registered entity's bid guarantee.
- (5) If no valid bid price between the prices mentioned in subsections (2) (a) and (b) would result in a bid with an actual maximum bid value being less than or equal to the value of the registered entity's bid guarantee, Ecology shall reject the removed lot.

**WAC 173-446-357 Acceptance of bids**

- (1) No bid price that is below the auction floor price shall be accepted.
- (2) Ecology shall accept bids that have not been rejected, starting with the highest bid price and continuing in decreasing order by bid price until no more acceptable bids remain or no more of the allowances described in the notice of the auction are available.
- (3) If the demand for allowances results in an auction clearing price that is lower than the emissions containment reserve trigger price, Ecology shall withhold up to 10 percent of the allowances submitted by Ecology for auction as needed until either the the emissions containment reserve trigger price becomes the auction settlement price or the number of allowances Ecology may withhold is exhausted. Allowances withheld from the auction under this subsection shall be placed in the emissions containment reserve.
- (4) Subsection (5) applies if more than one bid has been submitted at the lowest accepted bid price for allowances.
- (5) If the total number of allowances bid upon at a bid price mentioned in subsection (4) is greater than the number of allowances available at that bid price, Ecology shall divide the remaining allowances available at that bid price between the registered entities who submitted the bids at that bid price, in accordance with the following steps:
  - (a) Divide the number of allowances bid upon by each registered entity at that bid price by the total number of allowances that were bid upon at that bid price. This is the registered entity's share of the allowances.
  - (b) Multiply each participant's share determined under paragraph (5)(a) by the number of allowances remaining, rounding down to the nearest whole number. This is the number of allowances to be distributed to the registered entity.

- (c) If any allowances remain after carrying out the steps under paragraphs (a) and (b), distribute the remaining allowances as follows:
  - (i) Assign a random number to each registered entity who submitted a bid at the applicable lowest bid price.
  - (ii) Distribute one allowance at a time to the registered entities in ascending order by the random number assigned, until no more of the allowances available at that bid price remain.
- (6) Ecology shall distribute each allowance for which a bid has been accepted. The price to be paid by all bidders for each allowance is the lowest accepted bid price, which is also known as the auction settlement price.

**WAC 173-446-360 Payment for purchases**

- (1) A registered entity who has been notified by Ecology that one or more bids by the registered entity have been successful in an auction shall pay, in the form and manner approved by Ecology, the amount set out in the notice to the financial services administrator no later than seven days after receiving the notice.
- (2) If the registered entity provided a wire transfer as its bid guarantee, the wire transfer must be used to satisfy the amount payable under subsection (1).
- (3) If the amount of the wire transfer is not sufficient to satisfy the whole amount payable under subsection (1) and the registered entity does not pay the whole amount by the deadline set out in that subsection, the irrevocable letter of credit shall be used to satisfy the balance.
- (4) If the registered entity did not provide a wire transfer as its bid guarantee and does not pay the whole amount payable under subsection (1) by the deadline set out in that subsection, the irrevocable letter of credit shall be used to satisfy the amount.
- (5) Ecology shall transfer the allowances paid for under subsections (1) to (4) to the registered entity's holding account.
- (6) The financial services administrator shall return any unused portions of a bid guarantee.
- (7) Despite subsection (5), Ecology may transfer allowances purchased at an auction to a participant's compliance account if,
  - (a) the allowances are current or past year vintage allowances or allowances with no vintage year; and
  - (b) holding limits would not apply to the allowances once they are transferred to the compliance account.

**WAC 173-446-362 Summary of auction**

- (1) Ecology shall make available to the public, in a manner that Ecology considers appropriate, a written summary of each auction, setting out the following information:
  - (a) The auction settlement price.
  - (b) The registered entities to whom Ecology gave permission to participate in the auction.
  - (c) Details regarding the number of allowances sold, the number of each vintage year of allowances sold, and a description of how the allowances

- were distributed among the registered entities who submitted bids, without identifying which registered entities purchased the allowances.
- (2) The summary shall be made available no later than 45 days following the conclusion of the auction.

**WAC 173-446-365 Auction of future year allowances**

- (1) Two times per year, Ecology shall hold parallel auctions of future vintage allowances.
- (2) Auctions of future vintage allowances shall follow the same procedure set out in WAC 173-446-310 through -362.
- (3) At each auction of future allowances, Ecology will consign to auction 5 percent of the allowances for the year that is three years later than the auction year.
- (4) Auctions for future vintage allowances shall occur at the same time, with bidding during the same bidding window, as auctions for current vintage and past vintage allowances. However, bidders must provide separate bid guarantees for future vintage allowances and must provide separate bids for future vintage allowances. Bidders may not include in one bid future allowances mixed with current and past vintage allowances.

**WAC 173-446-370 Allowance Price Containment Reserve Account**

- (1) Ecology shall maintain an allowance price containment reserve account. For each year of the first compliance period, Ecology shall place 5% of the allowance in the annual allowance budget into the allowance price containment reserve account.
- (2) By January 15 of each year of subsequent compliance periods, Ecology shall determine the number of allowances to be placed in the allowance price containment reserve account.
- (2) Ecology shall hold separate auctions for allowances from the allowance price containment reserve when the settlement price in the preceding auction of current and prior vintage allowances reaches the tier 1 price for allowances in the allowance price containment reserve.
- (3) Ecology shall also hold separate auctions for allowances from the allowance price containment reserve when new covered and opt-in entities enter the program and allowances from the emissions containment reserve account are exhausted.
- (4) Only covered entities and opt-in entities may participate in allowance price containment reserve auctions.
- (5) Allowance price containment reserve auctions shall follow the procedures described in WAC 173-446-310 through -362, except:
  - (a) The purchase limits in WAC 173-446-330 do not apply to allowance price containment reserve auctions.
  - (b) In place of an auction floor price, there are two tiers of allowance prices at which bidders may bid:
    - (i) Tier 1 = xxx for 2023
    - (ii) Tier 2 = XXX for 2023

- (iii) The allowance price containment reserve tier prices for a year after 2023 shall be the allowance price containment tier prices for the prior calendar year increased annually by 5 percent plus the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for All Urban Consumers.
- (iv) Beginning in 2023, on the first business day in December of each year, Ecology shall announce the allowance price containment tier prices for the next year.
- (c) Bidders in an allowance price containment reserve auction may submit multiple bids. Each bid must be at either the Tier 1 price or the Tier 2 price.
- (d) Tier 1 allowances shall be sold first, then Tier 2 allowances. The auction of Tier 1 allowances shall continue until all Tier 1 allowances are sold or all bids are filled, whichever occurs first. The subsequent auction of Tier 2 allowances shall continue until all Tier 2 allowances are sold or all bids are filled, whichever occurs first.
- (e) Ecology shall reject bids or portions of bids, starting with the smallest of the registered entity's Tier 2 bids, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit.
- (f) The registered entity's actual maximum bid value is determined as follows:
  - (a) Multiply the Tier 1 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.
  - (b) Multiply the Tier 2 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.
  - (c) The registered entity's actual maximum bid value is the sum of the results obtained in (a) added to the results obtained in (b).
- (g) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, Ecology shall, starting with the registered entity's Tier 2 bids, remove enough lots, such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

**WAC 173-446-375 Emissions Containment Reserve Account**

- (1) Ecology shall maintain an emissions containment reserve account containing the following allowances:
  - (a) Allowances amounting to 2 percent of the annual allowance budgets for 2023 through 2026.
  - (b) Allowances submitted by Ecology for auction that remain unsold after being offered for sale for 24 months in current and past year vintage allowance auctions and future vintage allowance auctions.
  - (c) Allowances from EITEs that have been curtailed or closed.
  - (d) Allowances from facilities that fall below the emissions threshold. The number of these allowances must be proportionate to the amount of emissions the facility was previously using.

- (e) Allowances withheld from auction as described in WAC 173-446-357(3).
- (2) Ecology shall distribute allowances from the emissions containment reserve account as follows:
  - (a) By auction when new covered and opt-in entities enter the program; and
  - (b) By direct allocation at no cost to new or expanded EITE facilities with emissions greater than 25,000 MT CO<sub>2</sub>e per year during the first applicable compliance period. These allowances must be retired by the facility.
- (3) (a) Ecology shall hold auctions of allowances from the emissions containment reserve account when new covered and opt-in entities enter the program.
  - (b) Auctions of allowances from the emissions containment reserve account shall follow the processes and procedures specified in WAC 173-446- 310 to -362 EXCEPT: only covered entities and opt-in entities may participate in the auctions.

**WAC 173-446-380 Price Ceiling Units**

- (1) In the event that no allowances remain in the allowance price containment reserve, Ecology shall issue price ceiling units for sale at the price ceiling to covered and opt-in entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts to meet their compliance obligations for the next compliance deadline.
- (2) Each price ceiling unit covers the emission of 1 metric ton of CO<sub>2</sub>e.
- (3) Only covered and opt-in entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts to meet their requirements for the next compliance deadline may purchase price ceiling units. These covered and opt-in entities may purchase only the number of price ceiling units necessary to meet their compliance obligations for the next compliance deadline.

**WAC 173-446-385 Price Ceiling Unit Sales**

- (1) Price ceiling unit sales shall only be held between the last Allowance Price Containment Reserve Sale before a compliance deadline and the compliance deadline itself.
- (2) Price ceiling units shall be sold at the ceiling price.
- (3) Price ceiling unit sales shall be held only if a covered entity or opt-in entity requests a price ceiling unit sale.
- (4) In a request for a price ceiling unit sale, the covered entity or opt-in entity must provide an accounting to Ecology showing that it has insufficient compliance instruments to meet its compliance obligations for the next compliance deadline. The covered entity or opt-in entity must also demonstrate to Ecology's satisfaction that it tried, but was unable to acquire sufficient compliance instruments to meet its compliance obligations for the immediately upcoming compliance deadline.
- (5) Ecology shall review any requests and notify requesters of Ecology's response.

- (6) If Ecology agrees to sell price ceiling units, Ecology shall instruct the financial services administrator to begin to accept cash payment for purchases from price ceiling sales no earlier than ten business days after the previous Reserve sale and to cease accepting payments no later than seven days thereafter.
- (7) The financial services administrator will inform Ecology of the amounts of payments received from covered entities no later than one business day after it ceases to accept payments.
- (8) After a sale, Ecology will transfer purchased price ceiling units directly to each purchaser's compliance account for retirement at the next compliance deadline.

## **COMPLIANCE INSTRUMENT TRANSACTIONS**

### **WAC 173-446-400 Compliance instruments transactions – general information.**

- (1) A compliance instrument authorizes a covered entity to emit one metric ton of carbon dioxide equivalent in one calendar year. A compliance instrument does not expire, and may be held or banked. Once used, a compliance instrument must be retired and never used, traded, or transferred again.
- (2) By the end of each compliance period, each covered entity must surrender to Ecology the number of compliance instruments equal to the number of metric tons of carbon dioxide equivalent emitted by the covered entity during the compliance period.
- (3) Allowances may be obtained by direct distribution of no-cost allowances from Ecology, by purchase at auction, or by purchase, trade or transfer from other parties owning allowances.
- (4) Offset credits may be obtained as outlined in WAC 173-446-500.
- (5) A compliance instrument may be traded only among covered entities, opt-in entities, and general market participants registered with Ecology or with an external GHG ETS to which Washington has linked.
- (6) A covered entity or opt-in entity may only hold compliance instruments for its own use and may not hold compliance instruments on behalf of another party having an interest in or control of the compliance instruments.
- (7) Only compliance instruments recorded in a holding account may be traded. Once in a compliance account, compliance instruments may not be traded or sold, but may only be transferred to Ecology to cover GHG emissions.

### **WAC 173-446-410 Transfers among registered entities – process.**

- (1) Every registered entity wishing to trade compliance instruments with another party registered in Washington's program or with a party registered in an external GHG ETS to which Washington has linked must follow the procedures outlined below.

- (a) To initiate the transfer, a transferor's account representative must submit to Ecology and to all the transferor's other account representatives a transaction request containing the information outlined in WAC 173-446-430. A second transferor's account representative must submit confirmation of the transaction request to Ecology and to all the transferee's account representatives within 2 days after submission of the original request to Ecology.
  - (b) If the intended transferee wishes to accept the transfer, within three days after receiving confirmation of the transaction request referenced in paragraph (1) above, a transferee's account representative must submit to Ecology and to the transferor confirmation of acceptance of the transfer.
  - (c) At each step in the transaction request, the account representative concerned must attest to holding due authorization to complete the transaction for the registered entity, and that the information contained in the transaction request is true, accurate and complete.
  - (d) The account representatives involved in the transaction must provide Ecology on request and as soon as possible with any additional information concerning the transaction.
- (2) Ecology will transfer the compliance instruments unless:
- (a) The transfer would result in non-compliance with Chapter 70A.65 RCW or Chapter 173-446 WAC;
  - (b) Ecology has reasonable grounds to believe that a violation has been committed under Chapter 70A.65 RCW in relation to the request; or
  - (c) The request contains errors, omissions, or is otherwise incomplete.
- (3) Transfer refusal.
- (a) If Ecology refuses to transfer compliance instruments, Ecology shall provide notice of the reason for the refusal to all designated account representatives who have taken steps under this regulation with respect to the request.
  - (b) If Ecology refuses to transfer compliance instruments due to errors or omissions in the request, the notice shall identify the errors or omissions or shall include a description of how the request is otherwise incomplete.

**WAC 173-446-420 Transfers to Ecology – process.**

- (1) Every registered entity wishing to transfer compliance instruments from the registered entity's holding account to its compliance account must send Ecology a request including:



- (a) The registered entity's holding account number and its compliance account number; and
  - (b) The quantity, type, and, where applicable, vintage of the compliance instruments to be transferred.
- (2) To initiate a transfer to Ecology, an account representative from the registered entity must submit the transfer request to Ecology and to all the registered entity's other account representatives. One of the other account representatives must confirm the transfer request within two days after its submittal to Ecology.
- (3) Once the transfer has been confirmed, Ecology will send a notice to all the registered entity's account representatives. Unless otherwise indicated by one of the account representatives, or Ecology has serious grounds to believe that a violation under this rule has been committed, Ecology will transfer the compliance instruments from the registered entity's holding account to its compliance account.
- (4) Account representatives who have sent a transfer request for compliance instruments must provide Ecology, on request and as soon as possible, any additional information concerning the transfer.
- (5) When a transaction cannot be completed because of an error or omission in the information included in the request, or because the request does not meet the requirements of this section, or because an account does not contain enough compliance instruments or for any other reason, Ecology will send notice to the parties concerned within 5 working days following the failure to complete the transaction.

**WAC 173-446-430 Transaction requests – information required by Ecology.**

- (1) Each transaction request must contain the following information:
- (a) The holding account number of the transferor;
  - (b) The holding account number of the transferee;
  - (c) The quantity, type and, where applicable, vintage of the compliance instruments to be traded;
  - (d) The settlement price of each type, and, where applicable, each vintage of compliance instruments, as well as the method used to determine the settlement price; Provided that a registered entity is not required to disclose the settlement price of transferred compliance instruments when the transaction is between related entities or is a bundled transfer;
  - (e) The type of trading agreement, the date of signing of the agreement and the agreed upon trading date;

- (f) Where applicable, all other transactions or products covered by the agreement, a description of those transactions or products, and the name and contact information of the parties involved; and
- (g) The following attestation statement made and signed by the primary account representative or any alternate account representative: “I certify under penalty of perjury under the laws of the State of Washington that I am authorized to make this submission on behalf of the registered entity that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the State of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify under penalty of perjury under the laws of the State of Washington that the statements and information submitted to Ecology are true, accurate, and complete. I consent to the jurisdiction of Washington and its courts for purposes of enforcement of the laws, rules and regulations pertaining to WAC 173-446 and I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

**WAC 173-446-440 Compliance instrument transactions – prohibited actions.**

- (1) Other than the account representatives directly involved in a transaction, no party holding privileged information on a compliance instrument may trade that compliance instrument, disclose the information or recommend that another party trade the compliance instrument, except if the party has reason to believe that the information is known to the public or to the other party in the transaction. However, the party may disclose the information or recommend that another party trade the compliance instrument if the party is required to disclose the information in the course of business, and if nothing leads the person to believe that the information will be used or disclosed in contravention of this section.
- (2) No party prevented from trading compliance instruments pursuant to paragraph (1) above may use the privileged information in any other way, unless the party has reason to believe that the information is known to the public. In particular, the party may not carry out operations on futures contracts or other derivatives within the meaning of the Commodities Exchange Act, 7 U.S.C. Chapter 1 involving a compliance instrument.
- (3) A party with knowledge of material order information may not carry out or recommend that another party carry out a transaction involving a compliance instrument, or disclose the information to any other party except if:
  - (a) The party has reason to believe the other party is already aware of the information;

- (b) The party must disclose the information in the course of business, and nothing leads the party to believe that it will be used or disclosed in contravention of this section;
  - (c) The party carries out a transaction involving the compliance instrument concerned by the information in order to perform a written obligation that the party contracted before becoming aware of the information; and
  - (d) For the purposes of this section, material order information is any information concerning an order to buy or an order to sell a compliance instrument that could have a major impact on the price of a compliance instrument.
- (4) False or misleading information.
- (a) No party may disclose false or misleading information or information that must be filed pursuant to Chapter 173-446 WAC before it is filed, in order to carry out a transaction, in particular when it could influence the price of a compliance instrument.
  - (b) For the purpose of this section, false or misleading information is any information likely to mislead on an important fact, as well as the simple omission of an important fact; an important fact is any fact that may reasonably be believed to have a significant impact on the price or value of a compliance instrument.

## OFFSETS

### **WAC 173-446-500. General Requirements for Offset Credits and Registry Offset Credits.**

- (1) An Offset Project Operator or Authorized Project Designee must ensure the requirements for Ecology offset credits and registry offset credits are met as follows:
  - (a) A registry offset credit must:
    - (i) Represent a GHG emission reduction or GHG removal enhancement that is real, additional, quantifiable, permanent, verifiable, and enforceable;
    - (ii) Result from the use of a Compliance Offset Protocol that meets the requirements of this section;
    - (iii) Result from an offset project that is listed in accordance with this section.
    - (iv) Result from an offset project that follows the monitoring, reporting and record retention requirements of this section;
    - (v) Result from an offset project that is verified pursuant to the requirements of this section; and
    - (vi) Be issued by an Offset Project Registry approved pursuant to the requirements of this section.
- (2) An Ecology offset credit must meet the requirements of this section and:
  - (a) Be issued pursuant to section WAC 173-446-500;
  - (b) Be registered pursuant to section WAC 173-446-565;

- (c) Provide direct environmental benefits to the state pursuant to section WAC 173-446-595, and
- (d) When used for compliance be subject to the quantitative usage limit pursuant to WAC 173-446-600.

**WAC 173-446-505. Requirements for Compliance Offset Protocols.**

- (1) A Compliance Offset Protocol must:
  - (a) Accurately determine the extent to which GHG emission reductions and GHG removal enhancements are achieved by the offset project type;
  - (b) Establish data collection and monitoring procedures relevant to the type of GHG emissions sources, GHG sinks, and GHG reservoirs for that offset project type;
  - (c) Establish a project baseline that reflects a conservative estimate of business-as-usual performance or practices for the offset project type;
  - (d) Account for activity-shifting leakage and market-shifting leakage for the offset project type, unless the Compliance Offset Protocol stipulates eligibility conditions for use of the Compliance Offset Protocol that eliminate the risk of activity-shifting and/or market-shifting leakage;
  - (e) Account for any uncertainty in quantification factors for the offset project type;
  - (f) Ensure GHG emission reductions and GHG removal enhancements are permanent;
  - (g) Include a mechanism to ensure permanence of GHG removal enhancements for sequestration offset project types;
  - (h) Establish the length of the crediting period for the relevant offset project type; and
  - (i) Establish the eligibility and additionality of projects using standard criteria, and quantify GHG reductions and GHG removal enhancements using standardized baseline assumptions, emission factors, and monitoring methods.
- (2) Crediting Periods. The crediting period for a non-sequestration offset project must be no less than 7 years and no greater than 10 years, unless specified otherwise in a Compliance Offset Protocol. The crediting period for a sequestration offset project must be no less than 10 years and no greater than 30 years.
- (3) Geographic Applicability. A Compliance Offset Protocol must specify where the protocol is applicable.

**WAC 173-446-510. Requirements for Offset Projects Using Ecology Compliance Offset Protocols.**

- (1) General Requirements for Offset Projects. An Offset Project Operator or Authorized Project Designee must ensure that an offset project:
  - (a) Meets all of the requirements in a Compliance Offset Protocol;
  - (b) Meets the following additionality requirements, as well as any additionality requirements in the applicable Compliance Offset Protocol, as of the date of Offset Project Commencement:
    - (i) The activities that result in GHG reductions and GHG removal enhancements are not required by law, regulation, or any legally binding mandate applicable in the offset project's jurisdiction, and would not otherwise occur in a conservative business-as-usual scenario;

- (ii) The Offset Project Commencement date occurs after July 25, 2019, unless otherwise specified in the applicable Compliance Offset Protocol; and
- (iii) The GHG reductions and GHG removal enhancements resulting from the offset project exceed the project baseline calculated by the applicable version of the Compliance Offset Protocol under which the offset project has been listed or under which the offset project has been transitioned for that offset project type as set forth in the following:
  - (A) California Air Resources Board, Compliance Offset Protocol Livestock Projects, October 20, 2011, and Compliance Offset Protocol Livestock Projects, November 14, 2014, which are hereby incorporated by reference;
  - (B) California Air Resources Board, Compliance Offset Protocol Urban Forest Projects, October 20, 2011, which is hereby incorporated by reference;
  - (C) California Air Resources Board, Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015, which are hereby incorporated by reference;
- (iv) The Offset Project Operator or Authorized Project Designee may transition an offset project to the most recently incorporated version of the Compliance Offset Protocol by updating the listing information in an Offset Project Data Report.
  - (A) Projects transitioning to the most recent version of the Compliance Offset Protocol may only do so with an Offset Project Data Report submitted to Ecology or the Offset Project Registry prior to the site visit.
  - (B) To properly transition to the most recent version of the Compliance Offset Protocol, the Offset Project Data Report for the transitioning project must specify the most recent protocol version as the version under which the project is reporting. Projects may only transition to the latest version of the Compliance Offset Protocol during a reporting period that is subject to a full offset verification.
  - (C) For projects using a US forestry protocol, the first verification after transitioning to a new version of the Compliance Offset Protocol must meet all the requirements of section [Requirements for Offset Verification Services].
  - (D) A project will be considered to have completed the transition to the most recent version of the Compliance Offset Protocol at the time a Positive or Qualified Positive Offset Verification Statement for the applicable reporting period has been approved by Ecology.
  - (E) An offset project that transitions to a new version of the Compliance Offset Protocol during a crediting period will continue in the same crediting period and not start a new crediting period.

- (v) The offset project must meet all the requirements for the applicable version of the Compliance Offset Protocol under which the offset project has been listed or under which the offset project has been transitioned.
  - (vi) The applicable version of the Compliance Offset Protocol is the version under which the offset project has been listed or transitioned.
  - (vii) If any law, regulation, or legally binding mandate requiring GHG emission reductions or GHG removal enhancements comes into effect in Washington, in a linked jurisdiction, or in a jurisdiction outside Washington, affecting the offset project, during an offset project's crediting period, then the offset project is eligible to continue to receive offset credits for those GHG emission reductions and GHG removal enhancements for the remainder of the offset project's crediting period, but the offset project may not renew that crediting period. If an offset project has not been listed prior to the law, regulation, or legally binding mandate going into effect, or the law, regulation, or legally binding mandate goes into effect before the offset project's crediting period renews, then only emission reductions or removal enhancements that are in excess of what is required to comply with those laws, regulations, and/or legally binding mandates are eligible for offset credits.
- (c) Provides direct environmental benefits to the State of Washington, pursuant to WAC 173-446-595.
- (2) Local, Regional, State, and National Regulatory Compliance and Environmental Impact Assessment Requirements. An Offset Project Operator or Authorized Project Designee must fulfill all local, regional, state, and national requirements on environmental impact assessments that apply based on the offset project location. In addition, an offset project must also fulfill all local, regional, state, and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in a Compliance Offset Protocol. The project is considered out of regulatory compliance if the project activities were subject to enforcement action by a regulatory oversight body during the Reporting Period, although whether such enforcement action has occurred is not the only consideration Ecology may use in determining whether a project is out of regulatory compliance.
- (a) An offset project using a protocol other than Urban Forestry that is out of regulatory compliance is not eligible to receive Ecology or registry offset credits for GHG reductions or GHG removal enhancements that occurred during the period that the offset project is out of regulatory compliance. The Offset Project Operator or Authorized Project Designee must provide documentation indicating the beginning and end of the time period that the offset project is out of regulatory compliance to the satisfaction of Ecology.
    - (A) The time period that the offset project is out of regulatory compliance begins on the date that the activity which led to the offset project being out of regulatory compliance actually began and not necessarily the date that the regulatory oversight body first became aware of the issue. For determining the initial date of the offset project being out of regulatory compliance the Offsets

Project Operator or Authorized Project Designee must provide one or more of the following to Ecology:

- (I) Documentation from the relevant local, state, or federal regulatory oversight body that expressly identifies the precise start date of the offset project being out of regulatory compliance. Documentation must include evidence of the start date such as CEMS or other monitoring data, engineering estimates, satellite imagery, witness statements, or other reasonable method to aid in the identification of the precise start date; or
  - (II) Documentation of the date of the last inspection by the relevant local, state, or federal regulatory oversight body that did not indicate the offset project was out of regulatory compliance for the activity in question. The project will be considered out of regulatory compliance beginning the day after the inspection.
  - (III) If the last inspection described in (II) above was prior to the beginning of the Reporting Period, or if documentation regarding the date the project was out of regulatory compliance is not provided as set forth above to the satisfaction of Ecology, then the time period that the offset project is out of regulatory compliance, for purposes of the Reporting Period, commences at the beginning of the Reporting Period.
- (B) For determining the end date when the offset project returned to regulatory compliance, the Offset Project Operator or Authorized Project Designee must provide documentation from the relevant local, state, or federal regulatory oversight body stating that the offset project is back in regulatory compliance. The date when the offset project is deemed to have returned to regulatory compliance is the date that the relevant local, state, or federal regulatory oversight body determines that the project is back in regulatory compliance. This date is not necessarily the date that the activity ends or the device is repaired, and may include time for the payment of fines or completion of any additional requirements placed on the offset project by the regulatory oversight body, as determined by the regulatory oversight body. If the regulatory oversight body does not provide a written determination regarding the date when the project returned to regulatory compliance to the satisfaction of Ecology, the Offset Project Operator or Authorized Project Designee may provide documentation to Ecology from the regulatory oversight body clearly identifying the date the project returned to regulatory compliance. Documentation should be official dated correspondence with the relevant regulatory agency, such as a consent decree, inspection report, or other such documentation, identifying that the project has remedied the

condition(s) that rendered it out of compliance. For purposes of this subsection, Ecology may also take into consideration information pertaining to the date(s) the activity subject to enforcement action occurred; if the Offset Project Operator, Authorized Project Designee, or forest owner has acknowledged responsibility for the activity; and the ongoing status of the enforcement proceedings with the relevant local, state, or federal regulatory oversight body. If the relevant regulatory oversight body does not provide a written determination regarding the date when the project returned to regulatory compliance to the satisfaction of Ecology, and the Offset Project Operator or Authorized Project Designee is unable to provide documentation clearly identifying the date the project returned to regulatory compliance to the satisfaction of Ecology, then for purposes of the applicable Reporting Period, the Offset Project Operator or Authorized Project Designee must use the end of the Reporting Period for the date when the offset project returned to regulatory compliance.

- (C) Nothing in this section precludes the invalidation of Ecology offset credits issued for previous or subsequent Reporting Periods if Ecology determines that the offset project was out of regulatory compliance in previous or subsequent Reporting Periods. The offset project will continue to be deemed out of regulatory compliance in subsequent reporting Periods until the Offset Project Operator or Authorized Project Designee provides the documentation demonstrating regulatory compliance to Ecology.
- (D) Ecology's written determination and any supporting documents from the regulatory oversight body relating to the offset project being out of regulatory compliance and the timeframe identified for removal from the Reporting Period will be made public.
- (E) For determining GHG emission reductions or GHG removal enhancements for the Reporting Period as modified to reflect any period the offset project was out of regulatory compliance, the Offset Project Operator or Authorized Project Designee must remove the days when the project was out of regulatory compliance from the Reporting Period using the following methods:
  - (I) For projects using the livestock protocol the entire calendar day during which any portion of the project was not in regulatory compliance must be removed from the modeled or measured project baseline;
  - (II) For projects using a US Forstry protocol the entire calendar day during which any portion of the project was not in regulatory compliance must be removed by dividing the total calculated emissions reductions for the 12 month



period from the end of the previous Reporting Period, by the total number of days in the previous 12 months, either 365 days or 366 days, to calculate daily emissions reductions. The daily emissions reductions will be multiplied by the number of days the project was not in regulatory compliance and this number will be added to the project baseline for the end of the Reporting Period and the emissions reductions for the Reporting Period, excluding the days the project was out of regulatory compliance, will be calculated.

- (b) An offset project using an urban forestry protocol is not eligible to receive Ecology or registry offset credits for GHG reductions or GHG removal enhancements for the entire Reporting Period if the offset project is not in compliance with regulatory requirements directly applicable to the offset project during the Reporting Period.
- (3) Only a Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account may sign any documents or attestations to Ecology or an Offset Project Registry on behalf of the Offset Project Operator for an offset project.

**WAC 173-446-515. Authorized Project Designee.**

- (1) General Requirements for Designation of Authorized Project Designee. An Offset Project Operator may designate a party as an Authorized Project Designee at the time of offset project listing or any time after offset project listing as long as it meets the requirements of this section.
  - (a) The Offset Project Operator may assign ownership rights of Ecology offset credits or registry offset credits to the following parties at the time of registry offset credit or Ecology offset credit issuance:
    - (i) Authorized Project Designee; or
    - (ii) Any other third party not otherwise prohibited by this article.
  - (b) The director or officer, as identified in section [Registration Requirements], of the Offset Project Operator may delegate responsibility to the Authorized Project Designee for performing or meeting all the requirements of sections [TBD], where the Authorized Project Designee is specifically identified, the requirements in sections [TBD], on behalf of the Offset Project Operator.
    - (i) If an Authorized Project Designee is designated, the Authorized Project Designee will be responsible for performing all activities to meet the requirements in this section and will be the main point of contact with regard to the offset project for the Offset Project Registry and Ecology. The Offset Project Operator, however, is ultimately responsible for ensuring compliance with the requirements of this article and the applicable Compliance Offset Protocol. In addition, the Offset Project Operator retains its ability to perform any activities required under this article, including signing documents and attestations.
    - (ii) If an Authorized Project Designee is designated, the Offset Project Operator must designate an individual of the Authorized Project Designee as a Primary Account Representative or Alternate Account Representative

on the Offset Project Operator’s tracking system account before the Authorized Project Designee may act on behalf of the Offset Project Operator or submit any documentation to the Offset Project Registry and Ecology.

- (iii) Consultants. An Offset Project Operator or Authorized Project Designee may use a consultant to prepare documents for submittal by the Offset Project Operator or Authorized Project Designee to the Offset Project Registry or Ecology. However, a consultant may not sign any documents or attestations on behalf of the Offset Project Operator or Authorized Project Designee. A consultant may only communicate with Ecology or the Offset Project Registry in conjunction with the Offset Project Operator or Authorized Project Designee, and the Offset Project Operator or Authorized Project Designee must be included in all communications, whether written or verbal, between Ecology or the Offset Project Registry and the consultant regarding the offset project.
- (2) Modifications to Authorized Project Designee and Activities. An Offset Project Operator may modify or change an Authorized Project Designee, or any other third party authorized for a listed offset project once within each calendar year after the offset project has been listed by Ecology or an Offset Project Registry by submitting a request, in writing, to Ecology or an Offset Project Registry.

**WAC 173-446-520. Listing of Offset Projects Using Ecology Compliance Offset Protocols.**

- (1) General Requirements for Offset Project Operators or Authorized Project Designees Who Are Submitting an Offset Project for Listing. Before an offset project can be listed by Ecology or an Offset Project Registry the Offset Project Operator and its Authorized Project Designee, if applicable, must:
  - (a) Register with Ecology; and
  - (b) Not be subject to any Holding Account restrictions.
- (2) If the offset project is not listed by Ecology, it must be listed by an approved Offset Project Registry.
- (3) General Requirements for Offset Project Listing. For offset projects being listed by Ecology or an Offset Project Registry in an initial or renewed crediting period, the Offset Project Operator and any Authorized Project Designees must:
  - (a) Attest, in writing, to Ecology as follows: “I certify under penalty of perjury under the laws of the State of Washington the GHG reductions and/or GHG removal enhancements for [project] from [date] to [date] will be measured in accordance with the [appropriate Ecology Compliance Offset Protocol] and all information required to be submitted to Ecology is true, accurate, and complete.”;
  - (b) Attest, in writing, to Ecology as follows: “I understand I am voluntarily participating in this program and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this program and subject myself to the jurisdiction of Washington as the exclusive venue to resolve any and all disputes arising from the enforcement of provisions in this article.”;
  - (c) Attest in writing to Ecology as follows: “I understand that the offset project activity and implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety laws

and regulations that apply to the offset project location. I understand that offset projects that are not in compliance with the requirements of this chapter are not eligible to receive Ecology or registry offset credits for GHG reductions and GHG removal enhancements.”;

- (d) Provide all documentation required to Ecology or an Offset Project Registry; and
  - (e) Disclose GHG reductions and GHG removal enhancements issued credit by any voluntary or mandatory programs for the same offset project being listed or any GHG reductions and GHG removal enhancements used for any GHG mitigation requirement.
- (4) The attestations in this section must be provided to an Offset Project Registry with the listing information, if being listed with an Offset Project Registry, or to Ecology if being listed with Ecology.
- (5) Offset Project Listing Information Requirements. Before an offset project is publicly listed for an initial or renewed crediting period the Offset Project Operator or Authorized Project Designee must provide the listing information in the most recent version of a Compliance Offset Protocol for that offset project type as set forth in and incorporated by reference:
- (a) California Air Resources Board, Compliance Offset Protocol Livestock Projects, November 14, 2014;
  - (b) California Air Resources Board, Compliance Offset Protocol Urban Forest Projects, October 20, 2011;
  - (c) California Air Resources Board, Compliance Offset Protocol U.S. Forest Projects, June 25, 2015;
- (6) Review of Offset Project Listing Information. Ecology and/or the Offset Project Registry will review the offset project listing information submitted pursuant to this section for completeness.
- (7) Notice of Completeness for Offset Project Listing Information. The Offset Project Operator or Authorized Project Designee will be notified after review by Ecology or the Offset Project Registry, within 30 calendar days of receiving the complete and accurate listing information, that the offset project may be listed. If Ecology or the Offset Project Registry determine that the information submitted is incomplete or that a denial of the listing information is required, Ecology or the Offset Project Registry will notify the Offset Project Operator or Authorized Project Designee of this determination within 30 calendar days of receiving the listing information from the Offset Project Operator or Authorized Project Designee.
- (8) Timing for Offset Project Listing in an Initial Crediting Period. The Offset Project Operator or Authorized Project Designee must submit the information in subsection (5) of this section to Ecology or an Offset Project Registry no later than the date at which the Offset Project Operator or Authorized Project Designee submits its required Offset Project Data Report for its first Reporting Period under a Compliance Offset Protocol to Ecology or an Offset Project Registry. The Offset Project Operator or Authorized Project Designee must submit the listing information to Ecology or an Offset Project Registry no later than one year after Offset Project Commencement, or no later than one year after meeting the requirements of this section, whichever is later. If the Offset Project Operator or Authorized Project Designee does not submit the listing information for the offset project to Ecology or an Offset Project Registry within one year of Offset Project

Commencement, or within one year of meeting the requirements, whichever is later, it will be ineligible to be listed under a Compliance Offset Protocol and will not be issued registry offset credits and Ecology offset credits.

- (9) Listing Status of Offset Projects in an Initial Crediting Period. After the Offset Project Operator or Authorized Project Designee submits the offset project for listing in an initial crediting period and the required documentation, and Ecology or the Offset Project Registry has reviewed the offset project listing information for completeness, the offset project listing status will be labelled “Proposed Project.” If the offset project is not accepted for listing by an Offset Project Registry, the Offset Project Operator or Authorized Project Designee may request Ecology to make a final determination if the offset project meets the requirements to be listed for an initial crediting period by the Offset Project Registry. In making this determination, Ecology may consult with the Offset Project Registry before making the final determination.
- (10) Timing for Offset Project Listing in a Renewed Crediting Period. The Offset Project Operator or Authorized Project Designee must submit the required information for a renewed crediting period to Ecology or an Offset Project Registry no earlier than 18 months and no later than 9 months before conclusion of the initial crediting period or a previous renewed crediting period.
- (11) Listing Status of Offset Projects in a Renewed Crediting Period. After the Offset Project Operator or Authorized Project Designee submits the offset project for listing in a renewed crediting period and the required documentation, and Ecology or the Offset Project Registry has reviewed the offset project listing information for completeness, the offset project listing status will be “Proposed Renewal.” The verification body must assess that the offset project meets the additionality requirements as of the date of the commencement of the renewed crediting period when conducting offset verification services for the first Reporting Period of a renewed crediting period. If the offset project is not accepted for listing by an Offset Project Registry, the Offset Project Operator or Authorized Project Designee may request Ecology to make a final determination if the project meets the requirements of this section to be listed for a renewed crediting period by the Offset Project Registry. In making this determination, Ecology may consult with the Offset Project Registry before making the final determination.
- (12) Once Ecology or an Offset Project Registry approves an offset project for listing, the listing information is considered final, and may not be changed unless the Offset Project Operator changes during the crediting period.
  - (a) If the Offset Project Operator changes during the crediting period the new Offset Project Operator or Authorized Project Designee must submit updated listing information for the information that pertains to the Offset Project Operator and Authorized Project Designee, if applicable, to Ecology within 30 calendar days of the change.
  - (b) If the Offset Project Operator changes during the crediting period the new Offset Project Operator or Authorized Project Designee must submit the information to Ecology within 30 calendar days of the change.
- (13) Limitations for Crediting Period Renewals. A crediting period may be renewed if the offset project meets the requirements for additionality in section 510(1)(b) and in the applicable Compliance Offset Protocol.

- (a) The crediting period for non-sequestration offset projects may be renewed twice for the length of time identified by the Compliance Offset Protocol.
  - (b) Sequestration offset projects are not subject to any renewal limits.
- (14) Transferring an Offset Project. If the Offset Project Operator or Authorized Project Designee transfers an offset project listed with Ecology or an Offset Project Registry to Ecology or another Offset Project Registry:
- (a) Ecology or the Offset Project Registry that originally listed the offset project must change the offset project listing status on its registry system to “Transferred Ecology Project.” If the only action taken by the Offset Project Operator or the Authorized Project Designee was to have the listing documentation for the offset project approved by Ecology or the original Offset Project Registry, Ecology or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of one year before it is removed from the registry system. If the listing documentation was only submitted by the Offset Project Operator or Authorized Project Designee, but not approved by Ecology or the original Offset Project Registry, Ecology or the original Offset Project Registry does not need to retain the submitted listing documentation.
    - (i) If a verification body submitted an Offset Verification Statement, Ecology or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of the offset project life.
    - (ii) Ecology or the new Offset Project Registry must retain the listing date and all listing information as approved by Ecology or the original Offset Project Registry. If the offset project has not undergone initial verification, the Offset Project Commencement date may change as a result of verification activities only.
  - (b) The Offset Project Operator or Authorized Project Designee must submit the original listing documentation reviewed and accepted by Ecology or the original Offset Project Registry pursuant to this section to the new Offset Project Registry. The Offset Project Operator or Authorized Project Designee may only make changes to the listing documentation if the Offset Project Operator changes during the crediting period pursuant to subsection (12) of this section.
  - (c) The Offset Project Operator or Authorized Project Designee may not transfer an offset project to Ecology or another Offset Project Registry once a Notice of Offset Verification Services has been submitted for a Reporting Period(s) or during the course of offset verification services for a Reporting Period(s). Once a Notice of Offset Verification Services has been submitted, the offset verification services must be completed for the applicable Reporting Period(s) before the Offset Project Operator or Authorized Project Designee may transfer the offset project to Ecology or another Offset Project Registry. Once the offset verification services are completed for the applicable Reporting Period(s), the Offset Project Operator or Authorized Project Designee may transfer the offset project to Ecology or another Offset Project Registry.
- (15) Limitations for Listing Forest Offset Projects. Once a forest offset project has been issued registry offset credits or Ecology offset credits, no other offset project may be listed with a Project Area including any land within the previously listed geographic boundary of the previous offset project unless the previous offset project was terminated

due to an unintentional reversal or unless otherwise specified in a Compliance Offset Protocol.

**WAC 173-446-525. Monitoring, Reporting, and Record Retention Requirements for Offset Projects.**

- (1) General Requirements for Monitoring Equipment for Offset Projects. The Offset Project Operator or Authorized Project Designee must employ the procedures in the Compliance Offset Protocol for monitoring measurements and project performance for offset projects. All required monitoring equipment must be maintained and calibrated in a manner and at a frequency required by the equipment manufacturer, unless otherwise specified in the applicable Compliance Offset Protocol. All modeling, monitoring, sampling, or testing procedures must be conducted in a manner consistent with the applicable procedure.
- (2) The Offset Project Operator or Authorized Project Designee must use the missing data methods as provided in a Compliance Offset Protocol for that offset project type, if provided and applicable.
- (3) An Offset Project Operator or Authorized Project Designee must put in place all monitoring equipment or mechanisms required by the applicable version of the Compliance Offset Protocol for that offset project type as set forth in:
  - (a) Compliance Offset Protocol Livestock Projects, October 20, 2011 and Compliance Offset Protocol Livestock Projects, November 14, 2014;
  - (b) Compliance Offset Protocol Urban Forest Projects, October 20, 2011;
  - (c) Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014 and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015;
- (4) Offset Project Reporting Requirements. An Offset Project Operator or Authorized Project Designee shall submit an Offset Project Data Report to Ecology or an Offset Project Registry for each Reporting Period. Each Offset Project Data Report must cover a single Reporting Period. Reporting Periods must be contiguous; there must be no gaps in reporting once the first Reporting Period has commenced. If the Offset Project Operator or Authorized Project Designee fails to submit an Offset Project Data Report, then the Offset Project will be considered terminated and not eligible for Ecology offset credits. An Offset Project Data Report may be submitted after the deadline identified in this section, but before the end of the next Reporting Period, to maintain continuous reporting; however, no Ecology offset credits will be issued for the GHG emission reduction or removal enhancements quantified and reported in the Offset Project Data Report. The Offset Project Operator or Authorized Project Designee must submit an Offset Project Data Report to Ecology or an Offset Project Registry within 28 months of listing their offset project and must also meet all other applicable deadlines pertaining to submittal of the Offset Project Data Report. If the Offset Project Operator or Authorized Project Designee does not submit an Offset Project Data Report to Ecology or an Offset Project Registry within 28 months of listing an offset project, then the Offset Project Operator or Authorized Project Designee must update the listing information in the Offset Project Data Report to reflect the most recent version of the Compliance Offset Protocol for that project type in order to remain eligible to be issued Ecology offset credits. If an Offset Project Data Report that does not meet the 28 month deadline also fails to meet the deadline in this section, an Offset Project Data Report covering the Reporting Period

must be submitted using the most recent version of the Compliance Offset Protocol; however, no Ecology offset credits will be issued for the GHG emission reductions or removal enhancements. For forestry offset projects, when an Offset Project Data Report is not filed within the deadline specified in this section, the values used for  $AC_{\text{onsite},y-1}$  and  $BC_{\text{onsite},y-1}$  in the Offset Project Data Report for the following Reporting Period will be the  $AC_{\text{onsite},y}$  and  $BC_{\text{onsite},y}$  values reported in the untimely Offset Project Data Report for the preceding Reporting Period. The Offset Project Data Report shall contain the information required by the applicable version of the Compliance Offset Protocol for that offset project type as set forth in:

- (a) Compliance Offset Protocol Livestock Projects, October 20, 2011 and Compliance Offset Protocol Livestock Projects, November 14, 2014;
  - (b) Compliance Offset Protocol Urban Forest Projects, October 20, 2011;
  - (c) Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015;
- (5) The Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account must attest, in writing, to Ecology as follows: "I certify under penalty of perjury under the laws of the State of Washington the GHG reductions and/or GHG removal enhancements for [project] from [date] to [date] are measured in accordance with the [appropriate Ecology Compliance Offset Protocol] and all information required to be submitted to Ecology in the Offset Project Data Report is true, accurate, and complete." This attestation must be provided with each version of the Offset Project Data Report to an Offset Project Registry if the offset project is listed with an Offset Project Registry, or to Ecology if the offset project is listed with Ecology.
- (6) An Offset Project Data Report must be submitted within four months after the conclusion of each Reporting Period. For a submission to be considered valid, the submitted Offset Project Data Report must include any required attestation(s) and must be signed by the Offset Project Operator's Primary Account Representative or Alternate Account Representative.
- (7) If an Offset Project Data Report is not submitted to Ecology or an Offset Project Registry as required by this regulation by the four-month reporting deadline, the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report are not eligible to be issued registry offset credits or Ecology offset credits.
- (8) Each version of an Offset Project Data Report submitted to Ecology or an Offset Project Registry must specify the version number and the date submitted.
- (9) For offset projects reporting under one of the Compliance Offset Protocols an Offset Project Data Report must include both the protocol version under which a project was listed and the protocol version under which a project is reporting.
- (10) Requirements for Record Retention for Offset Projects. An Offset Project Operator or Authorized Project Designee must meet the following requirements:
- (a) The Offset Project Operator or Authorized Project Designee must retain the following documents:
    - (i) All information submitted as part of the Offset Project Data Report;
    - (ii) Documentation of the offset project boundary, including a list of all GHG emissions sources, GHG sinks, and GHG reservoirs included in the offset project boundary and the project baseline, and the calculation of the

- project baseline, project emissions, GHG emission reductions, and GHG removal enhancements;
- (iii) Fuel use and any other underlying measured or sampled data used to calculate project baseline emissions, GHG emission reductions, and GHG removal enhancements for each source, categorized by process and fuel, or material type;
  - (iv) Documentation of the process for collecting fuel use or any other underlying measured or sampled data for the offset project and its GHG emissions sources, GHG sinks, and GHG reservoirs for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (v) Documentation of all project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (vi) All point of origin and chain of custody documents required by a Compliance Offset Protocol, if applicable;
  - (vii) All chemical analyses, results, and testing-related documentation for material and sources used for inputs to project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (viii) All model inputs or assumptions used for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (ix) Any data used to assess the accuracy of project baseline emissions, GHG emission reductions, and GHG removal enhancements from each offset project GHG emissions source, GHG sink, and GHG reservoir, categorized by process;
  - (x) Quality assurance and quality control information including information regarding any measurement gaps, missing data substitution, calibrations or maintenance records for monitoring equipment, or models providing data for calculating project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (xi) A detailed technical description of any offset project continuous measurement/monitoring system, including documentation of any findings and approvals by federal, state, and local agencies;
  - (xii) Raw and aggregated data from any measurement system;
  - (xiii) Documentation of any changes over time and the log book on tests, down-times, calibrations, servicing, and maintenance for any measurement/monitoring equipment providing data for project baseline calculations, project emissions, GHG emission reductions, and GHG removal enhancements;
  - (xiv) For sequestration offset projects, documentation of inventory methodologies and sampling procedures including all calculation methodologies and equations used, and any data related to plot sampling; and
  - (xv) Any other documentation or data required to be retained by a Compliance Offset Protocol, if applicable.



- (b) Documents associated with the preparation of an Offset Project Data Report shall be retained in paper, electronic, or other usable format for a minimum of 15 years following the issuance of Ecology offset credits related to that Offset Project Data Report. All other documents shall be retained in paper, electronic, or other usable format for a minimum of 15 years.
  - (c) The documents retained pursuant to this section must be sufficient to allow for the verification of each Offset Project Data Report.
  - (d) Upon request by Ecology or an Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide to Ecology or an Offset Project Registry all documents pursuant to this section, including data used to develop an Offset Project Data Report within 10 calendar days of the request.
- (11) General Procedure for Interim Data Collection. This section only applies if a Compliance Offset Protocol does not already include methods, or does not include a specific method for the data in question, for collecting or accounting for data in the event of missing data due to an unforeseen breakdown of gas or fuel analytical monitoring equipment or other data collection systems.
- (a) In the event of an unforeseen breakdown of offset project data monitoring equipment and gas or fuel flow monitoring devices required for the GHG emission reductions and GHG removal enhancement estimation, Ecology may authorize an Offset Project Operator or Authorized Project Designee to use an interim data collection procedure if Ecology determines that the Offset Project Operator or Authorized Project Designee has satisfactorily demonstrated that:
    - (i) The breakdown may result in a loss of more than 20 percent of the source's data for the year covered by an Offset Project Data Report;
    - (ii) The data monitoring equipment cannot be promptly repaired or replaced without shutting down a process unit significantly affecting the offset project operations, or that the monitoring equipment must be replaced and replacement equipment is not immediately available;
    - (iii) The interim procedure will not remain in effect longer than is reasonably necessary for repair or replacement of the malfunctioning data monitoring equipment; and
    - (iv) The request was submitted within 30 calendar days of the breakdown of the data monitoring equipment
  - (b) An Offset Project Operator or Authorized Project Designee seeking approval of an interim data collection procedure must, within 30 calendar days of the monitoring equipment breakdown, submit a written request to Ecology that includes all of the following:
    - (i) The proposed start date and end date of the interim procedure;
    - (ii) A detailed description of what data are affected by the breakdown;
    - (iii) A discussion of the accuracy of data collected during the interim procedure compared with the data collected under the Offset Project Operator's or Authorized Project Designee's usual equipment-based method; and a demonstration that no feasible alternative procedure exists that would provide more accurate emissions data.
  - (c) Ecology may limit the duration of the interim data collection procedure or include other conditions for approval.

- (d) Data collected pursuant to an approved interim data collection procedure shall be considered captured data for purposes of compliance with a Compliance Offset Protocol. When approving an interim data collection procedure, Ecology shall determine whether the accuracy of data collected under the procedure is reasonably equivalent to data collected from properly functioning monitoring equipment, and if it is not, the relative accuracy to assign for purposes of assessing possible offset material misstatement.
- (12) General Procedure for Approving Alternate Monitoring and Measurement Methods Pursuant to Compliance Offset Protocols. This section applies only to alternate methods for monitoring and measurement that were not in common usage at the time when Ecology adopted the Compliance Offset Protocol under which an Offset Project Data Report is being submitted. Alternate methods may include remote sensing methods for forestry or other alternate methods that meet the requirements of this section.
- (a) An Offset Project Operator or Authorized Project Designee seeking approval of an alternate monitoring and measurement method must, at least 30 days prior to the beginning of the reporting period in which the alternate method will be used, submit a written request to Ecology that includes all of the following:
    - (i) The name and identification numbers of the offset project for which the alternate method is proposed;
    - (ii) The beginning and end dates for the reporting period for which the alternate method is proposed;
    - (iii) A detailed description of the alternate method. This description must include:
      - (A) The purpose for which the alternate method is proposed;
      - (B) A discussion of the accuracy of the alternate method, including any peer-reviewed literature or other information that the Offset Project Operator or Authorized Project Designee believes may aid Ecology in making a determination of the eligibility of the method; and
      - (C) A detailed analysis identifying how the alternate method is consistent with the relevant requirements, and not explicitly prohibited by the applicable Compliance Offset Protocol.
  - (b) Ecology may approve an alternate method on an interim basis for one reporting period to review the accuracy of the method. Approval of an alternate method on an interim basis in itself does not provide any right to approval on a longer term basis. Ecology may also include other conditions as part of its interim approval.
  - (c) Before approving an alternate method, Ecology shall determine that the accuracy of the alternate method is at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted and that the alternate method is capable of being verified to a reasonable level of assurance.
  - (d) Data collected pursuant to an approved alternate method shall be considered in compliance with the requirements of the relevant Compliance Offset Protocol.
  - (e) Ecology may request additional information from the Offset Project Operator or Authorized Project Designee seeking approval of an alternate method prior to approving any request. Ecology shall provide written notification to the Offset Project Operator or the Authorized Project Designee of approval or disapproval of

the interim alternate method within 30 days of receipt of the request, or within 30 days of receipt of any additional information requested by Ecology, whichever is later.

- (f) A request for approval of an alternate method may only be submitted for a reporting period for which a project is receiving a full offset verification.
- (g) If information comes to Ecology's attention subsequent to approving an alternate method indicating that the alternate method is not at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted, or is not capable of being verified to a reasonable level of assurance, Ecology may rescind approval of the alternate method at any time. If after using the alternate method for one reporting period Ecology has not determined that the alternate method is not at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted, or is not capable of being verified to a reasonable level of assurance, Ecology may approve the alternate method, including any conditions, on a permanent basis.
- (h) For the purposes of this section "common usage" means a method that is demonstrated to be in use by an offset project using the same protocol type (e.g., U.S. Forests, livestock, etc.) on the compliance or voluntary market in the U.S. at the time of adoption of the Compliance Offset Protocol version.

**WAC 173-446-530. Verification of GHG Emission Reductions and GHG Removal Enhancements from Offset Projects.**

- (1) General Requirements. An Offset Project Operator or Authorized Project Designee must obtain the services of an Ecology-accredited verification body for the purposes of verifying Offset Project Data Reports.
- (2) Schedule for Verification of Non-Sequestration Offset Projects. The verification of GHG emission reductions for non-sequestration offset projects that produce greater than or equal to 25,000 metric tons of GHG reductions must be performed on a Reporting Period basis and cover the Reporting Period for which the most recent Offset Project Data Report was submitted unless otherwise specified in a Compliance Offset Protocol. For Reporting Periods in which an Offset Project Data Report for a non-sequestration offset project shows that the offset project produced fewer than 25,000 metric tons of GHG reductions in a Reporting Period, the Offset Project Operator or Authorized Project Designee may choose to perform verification that covers two consecutive Reporting Periods, even if for the subsequent Reporting Period the offset project produced greater than or equal to 25,000 metric tons of GHG reductions. If an Offset Project Data Report results in zero GHG emission reductions, the Offset Project Operator or Authorized Project Designee may defer verification until the offset project produces an Offset Project Data Report that no longer results in zero GHG emission reductions.
- (3) Schedule for Verification of Sequestration Offset Projects. An initial verification of GHG emission reductions and GHG removal enhancements for all sequestration offset projects must be performed following the first Reporting Period and cover one Reporting Period. After the first Reporting Period, verification must be conducted at least once every six years and may cover up to six Reporting Periods for which Offset Project Data

Reports were submitted. After an initial verification with a Positive Offset Verification Statement, reforestation offset projects and urban forest offset projects that meet the requirements of the applicable Compliance Offset Protocol may defer the second verification for twelve years, but verification of Offset Project Data Reports must be performed at least once every six years thereafter. For offset projects that do not renew their crediting period, verification must still be conducted at least once every six years for the remainder of the project life. However, after a successful full offset verification of an Offset Project Data Report indicating that Actual Onsite Carbon Stocks (in MT CO<sub>2e</sub>) are at least 10% greater than the Actual Onsite Carbon Stocks reported in the final Offset Project Data Report of the final crediting period that received a positive Offset Verification Statement, the next full offset verification service may be deferred for twelve years. An offset project that has deferred verification for twelve years must resume conducting a full verification at least once every six years if it receives an Adverse Offset Verification Statement.

- (4) Timing for Submittal of Offset Verification Statements to Ecology or an Offset Project Registry. Any Offset Verification Statement must be received by Ecology or an Offset Project Registry within eleven months after the conclusion of the Reporting Period for which offset verification services were performed, except for Reporting Periods for which verification is deferred in accordance with this section. If the Offset Verification Statement is not submitted to Ecology or an Offset Project Registry by the verification deadline, the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report are not eligible to be issued Ecology offset credits or registry offset credits. The verification body must issue one Offset Verification Statement for each Offset Project Data Report that it verifies for the Offset Project Operator or Authorized Project Designee.

#### **WAC 173-446-535. Requirements for Offset Verification Services.**

- (1) Rotation of Verification Bodies. An offset project shall not have more than any six out of nine consecutive Reporting Periods verified by the same verification body or offset verification team member(s), unless otherwise specified. The rotation requirements in this section are applied between the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable, and the verification body and offset verification team member(s) on an offset project basis.
- (2) For reforestation offset projects and urban forest offset projects the following shall apply: An Offset Project Operator or Authorized Project Designee that has deferred the second verification for 6 to 12 years may have up to 13 Offset Project Data Reports verified by the same verification body and offset verification team member(s). If an Offset Project Operator or Authorized Project Designee has not deferred the second verification for more than 6 years, the requirements for rotation of verification bodies and offset verification team member(s) shall apply. An Offset Project Operator or Authorized Project Designee may contract with a previous verification body or offset verification team member(s) only if at least three consecutive Offset Project Data Reports for the offset project have been verified by a different verification body(ies) and offset verification team member(s) before the previous verification body and offset verification

team member(s) is selected again. When rotating verification bodies and offset verification team members under this provision, the rotation requirements must also apply to any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable.

(3) Offset Verification Services. Offset Verification Services shall be subject to the following requirements.

(a) Notice of Offset Verification Services for Offset Projects. Before offset verification services may begin, the Offset Project Operator or Authorized Project Designee must submit the Offset Project Data Report to Ecology or an Offset Project Registry, and the verification body must submit a Notice of Offset Verification Services to Ecology and an Offset Project Registry, if applicable. The verification body may begin offset verification services for the Offset Project Operator or Authorized Project Designee 10 calendar days after the Notice for Offset Verification Services is received by Ecology and the Offset Project Registry. The verification body may not conduct the site visit until at least 15 calendar days after the Notice for Offset Verification Services is received by Ecology and the Offset Project Registry. If a verification is being audited by Ecology or by an Offset Project Registry and if Ecology or the Offset Project Registry notify the verification body of the audit in writing within five working days of receiving the Notice for Offset Verification Services, the verification body may not conduct the site visit until at least 40 calendar days after the Notice for Offset Verification Services is received by Ecology and the Offset Project Registry, unless each auditing party approves in writing an earlier site visit date. The Notice of Offset Verification Services must include the following information:

- (i) The offset project name and its identification numbers, the Compliance Offset Protocol and its version under which the offset project is reporting, indication of whether a single or multiple reporting periods will receive offset verification services, the reporting period start and end dates, and the crediting period start date;
- (ii) A list of staff who will be designated to provide offset verification services as part of an offset verification team, including the names of each designated staff member, the lead verifier, independent reviewer, all subcontractors, and a description of the roles and responsibilities each team member will have during the offset verification process;
- (iii) Documentation that the offset verification team has the skills required to provide offset verification services for the Offset Project Operator or Authorized Project Designee. At least one offset verification team member must be accredited by Ecology as an offset project specific verifier for an offset project of that type; and
- (iv) General information on the Offset Project Operator or Authorized Project Designee, including:
  - (A) The name of the Offset Project Operator or Authorized Project Designee, including contact information, address, telephone number, and email address;
  - (B) The locations that will be subject to offset verification services;

- (C) The date(s) of on-site visits, with address and contact information; and
  - (D) A brief description of expected offset verification services to be performed, including the expected date for submitting the Offset Verification Statement to Ecology or the Offset Project Registry.
- (b) If any information submitted pursuant to this section changes after the Notice for Offset Verification Services is submitted to Ecology and the Offset Project Registry, if applicable, the verification body must notify Ecology and the Offset Project Registry by submitting an updated Notice of Offset Verification Services within 10 working days. If the verification body has been notified by Ecology or the Offset Project Registry of an audit for the relevant verification, then the verification body must notify the auditing party at least two working days prior to a revised start date for offset verification services and at least 15 working days prior to a revised site visit date(s), unless each auditing party approves in writing an earlier date. If Ecology and the Offset Project Registry, if applicable, request revisions to the Notice of Offset Verification Services, the verification body must resubmit the revised Notice of Offset Verification Services within 10 working days of such request, or if there is a reason the verification body cannot submit the revisions within 10 working days, the verification body must communicate to Ecology and the Offset Project Registry in writing as to the reasons why and get approval from the Offset Project Registry or Ecology for an extension.
- (c) Offset verification services must include the following:
  - (i) Offset Verification Plan. The Offset Project Operator or Authorized Project Designee must submit the following information necessary to develop an Offset Verification Plan to the offset verification team:
    - (A) Information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and Reporting Period GHG reductions and GHG removal enhancements;
    - (B) Information regarding the training or qualifications of personnel involved in developing the Offset Project Data Report;
    - (C) The name and date of the Compliance Offset Protocol used to quantify and report project baselines, GHG reductions, GHG removal enhancements, and other required data as applicable in the Compliance Offset Protocol; and
    - (D) Information about any data management system, offset project monitoring system, and models used to track project baselines, GHG reductions, GHG removal enhancements, and other required data as applicable in the Compliance Offset Protocol.
  - (ii) Timing of Offset Verification Services. The Offset Verification Plan shall also include the following information:
    - (A) Dates of proposed meetings and interviews with personnel related to the offset project;
    - (B) Dates of proposed site visits;
    - (C) Types of proposed document and data reviews; and

- (D) Expected date for completing offset verification services.
- (iii) Planning Meetings with the Offset Project Operator or Authorized Project Designee. The offset verification team must discuss with the Offset Project Operator or Authorized Project Designee the scope of the offset verification services and request any information and documents needed for initiating offset verification services. The offset verification team must review the documents submitted and plan and conduct a review of original documents and supporting data for the Offset Project Data Report. Information regarding planning meetings may be included in the offset verification plan, but is not required. Any discussions or meetings to secure an offset verification services contract or collect preliminary project documents to bid the offset verification services may occur prior to submitting the Notice of Offset Verification Services.
- (iv) Site Visits for Offset Projects. For a non-sequestration offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make at least one site visit for each Reporting Period that an Offset Project Data Report is submitted, except for those non-sequestration offset projects for which the Offset Project Data Reports qualify for a two-year offset verification period. In this case, at least one offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit each time offset verification services are performed; offset verification services for nonsequestration offset projects would include one or two Reporting Periods, depending on whether verification is eligible to be deferred. For a forest or urban forest offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit every year that offset verification services are provided, except for those offset projects approved for less intensive verification, for which a site visit must be performed at least once every six years. A site visit is also required after the first Reporting Period of an offset project under a Compliance Offset Protocol and after the first Reporting Period for each renewed crediting period under a Compliance Offset Protocol. Any site visit performed under this section must be conducted after the Offset Project Operator or Authorized Project Designee submits its Offset Project Data Report to Ecology or an Offset Project Registry. During the required verification, the offset verification team member(s) must conduct the following, and document or explain how each requirement was checked and fulfilled in the detailed verification report:
  - (A) During the initial verification conducted following the first Reporting Period of the crediting period the offset verification team members must complete all of the following requirements, either during the required site visit or as part of a desk review:
    - (I) Assess offset project eligibility and that the offset project meets the requirements for additionality and the applicable Compliance Offset Protocol;

- (II) Review the information submitted for listing and determine if it is complete and accurate;
  - (III) Confirm that the offset project boundary is appropriately defined;
  - (IV) Review project baseline calculations and modeling;
  - (V) Assess the operations, functionality, data control systems, and review GHG measurement and monitoring techniques; and
  - (VI) Confirm that all applicable eligibility criteria to design, measure, establish the chain of custody, and monitor the offset project conforms to the requirements of the applicable Compliance Offset Protocol.
  - (VII) All criteria pertaining to the eligibility of the offset project must be assessed during the first site visit in the first Reporting Period of each crediting period. All eligibility criteria must be met and are not subject to sampling. If any of the eligibility criteria are not met, the project would be ineligible for crediting and receive an Adverse Offset Verification Statement.
- (B) During the initial verification conducted following the first Reporting Period of the crediting period and each subsequent verification the offset verification team must complete all of the following requirements, either during the required site visit or as part of a desk review:
- (I) Check that all offset project boundaries, GHG emissions sources, GHG sinks, and GHG reservoirs in the applicable Compliance Offset Protocol are identified appropriately;
  - (II) Review and understand the data management systems used by the Offset Project Operator or Authorized Project Designee to track, quantify, and report GHG reductions, GHG removal enhancements, or other data required as applicable in the Compliance Offset Protocol. This includes reviewing data collection processes and procedures, sampling techniques and metering accuracy, quality assurance/quality control processes and procedures, and missing data procedures. The offset verification team member(s) must evaluate the uncertainty and effectiveness of these systems;
  - (III) Interview key personnel involved in collecting offset project data and preparing the Offset Project Data Report;
  - (IV) Make direct observations of equipment for data sources and equipment supplying data for GHG emission sources in the sampling plan determined to be high risk;
  - (V) Collect and review other information that, in the professional judgment of the team, is needed in the offset verification process;



- (VI) Confirm the offset project conforms with all local, state, or federal environmental regulatory, including health and safety regulations; and
- (C) Review all chain of custody documents as required in the Compliance Offset Protocol, if applicable.
- (D) If the offset project is found by the offset verification team to not meet the requirements of this section., the offset project is ineligible to receive Ecology offset credits or registry offset credits for some or all GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report.
- (v) The offset verification team must review offset project operations to identify applicable GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs required to be included and quantified in the Offset Project Data Report as required by the applicable Compliance Offset Protocol. This must include a review of each type of GHG emissions source, GHG sink, and GHG reservoir to ensure that all GHG emissions sources, GHG sinks, and GHG reservoirs required to be reported for the offset project are properly included in the Offset Project Data Report.
- (vi) An Offset Project Operator or Authorized Project Designee must make available to the offset verification team all information and documentation used to calculate and report project baseline and project GHG emissions, GHG reductions, and GHG removal enhancements and other information required by the applicable Compliance Offset Protocol.
- (vii) Sampling Plan for Offset Project Data Reports. As part of confirming the Offset Project Data Report, the offset verification team must develop a sampling plan that meets the following requirements:
  - (A) The offset verification team must develop a sampling plan based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the offset verification services for an Offset Project Operator or Authorized Project Designee. The analysis must review the inputs for the development of the submitted Offset Project Data Report, the rigor and appropriateness of the GHG data management systems, and the coordination within an Offset Project Operator's or Authorized Project Designee's organization to manage the operation and maintenance of equipment and systems used to develop the Offset Project Data Reports;
  - (B) The offset verification team must include a ranking of GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary by amount of contribution to total CO<sub>2</sub>e emissions, GHG reductions, and GHG removal enhancements, and a ranking of GHG emissions sources, GHG sinks, or GHG reservoirs with the largest calculation uncertainty; and

- (C) The offset verification team must include a qualitative narrative of uncertainty risk assessment in the following areas as applicable to the Compliance Offset Protocol:
  - (I) Data acquisition equipment;
  - (II) Data sampling and frequency;
  - (III) Data processing and tracking;
  - (IV) Project baseline and project GHG emissions, GHG reductions, and GHG removal enhancement calculations;
  - (V) Data reporting; and
  - (VI) Management policies or practices in developing Offset Project Data Reports.
- (viii) After completing the analysis in section XXX, the offset verification team must include in the sampling plan a list which includes the following:
  - (A) GHG emissions sources, GHG sinks, and GHG reservoirs that will be targeted for document reviews to ensure conformance with the Compliance Offset Protocol and data checks as specified and an explanation of why they were chosen;
  - (B) Methods used to conduct data checks for each GHG emissions source, GHG sink, and GHG reservoir; and
  - (C) A summary of the information analyzed in the data checks and document reviews conducted for each GHG emissions source, GHG sink, and GHG reservoir.
- (ix) The sampling plan list must be updated and finalized prior to the completion of offset verification services. The final sampling plan must describe in detail how the GHG emissions sources, GHG sinks, and GHG reservoirs with identified risk, subject to data checks, were reviewed for accuracy.
- (x) The offset verification team must revise the sampling plan to describe tasks completed or needed to be completed by the offset verification team as relevant information becomes available and potential issues emerge of offset material misstatement or nonconformance with the requirements of the Compliance Offset Protocol and this article.
- (xi) The verification body must retain the sampling plan in paper, electronic, or other format for a period of not less than 15 years following the submission of each Offset Verification Statement. The sampling plan must be made available at any time during offset verification services to Ecology or the Offset Project Registry within 10 calendar days upon request. The verification body must also retain all material received, reviewed, or generated to render an Offset Verification Statement for an Offset Project Operator or Authorized Project Designee for 15 years following the submittal of each Offset Verification Statement. The documentation must allow for a transparent review of how a verification body reached its conclusion in the detailed verification report and Offset Verification Statement.
- (xii) Data Checks for Offset Project Data Reports. To determine the reliability of the submitted Offset Project Data Report, the offset verification team

must use data checks. Such data checks must focus first on the largest and most uncertain estimates of project baseline GHG emissions, project emissions, GHG reductions, and GHG removal enhancements, and the offset verification team must:

- (A) Use data checks to ensure that the appropriate methodologies and GHG emission factors have been applied in calculating the project baseline and Reporting Period GHG emissions, project emissions, GHG reductions, and GHG removal enhancements calculations in the Compliance Offset Protocol.
- (B) GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs for data checks based on their relative sizes and risks of offset material misstatement or nonconformance as indicated in the sampling plan;
- (C) Use professional judgment in the number of data checks required for the offset verification team to conclude with reasonable assurance whether the Offset Project Operator's or Authorized Project Designee's total reported GHG reductions and GHG removal enhancements are free of offset material misstatement and the Offset Project Data Report otherwise conforms to the requirements of the Compliance Offset Protocol and this article. At a minimum a data check must include the following:
  - (I) Tracing data in the Offset Project Data Report to its origin;
  - (II) Looking at the process for data compilation and collection;
  - (III) Reviewing all GHG inventory designs for GHG sources, GHG sinks, and GHG reservoirs, and sampling procedures, if applicable;
  - (IV) Recalculating baseline GHG emissions, project emissions, GHG reductions, and GHG removal enhancements estimates to check original calculations;
  - (V) Reviewing calculation methodologies used by the Offset Project Operator or Authorized Project Designee for conformance with the Compliance Offset Protocol and this article;
  - (VI) Reviewing meter and fuel analytical instrumentation calibration, if applicable; and
  - (VII) Reviewing the quantification from models approved for use in the Compliance Offset Protocol, if applicable; and
- (D) Compare its own calculated results for the data checks conducted with the reported offset project data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be identified in the issues log. The comparison of data checks must also include a narrative to indicate which GHG emissions sources, GHG sinks, and GHG reservoirs were checked, the types and quantity of data that were evaluated for each GHG emissions source, GHG sink, and GHG reservoir, how the data checks were

conducted including calculations, and any discrepancies that were identified.

- (xiii) Offset Project Data Report Modifications. As a result of review by the offset verification team and prior to completion of an Offset Verification Statement, the Offset Project Operator or Authorized Project Designee must make any possible improvements and fix correctable errors that affect GHG emissions reductions or removal enhancements in the submitted Offset Project Data Report, and a revised Offset Project Data Report must be submitted to Ecology or the Offset Project Registry. Correctable errors that, when summed, result in less than a three percent (3 %) overstatement of the GHG emissions reductions or removal enhancements do not need to be fixed. Errors subject to the three percent exception still constitute errors for purposes of this Regulation, and the Offset Project Operator and Authorized Project Designee, if applicable, are still subject to the requirements of sections [Penalties and Violations]. The revised Offset Project Data Report must include all components required in this section. If the Offset Project Operator or Authorized Project Designee does not make all possible improvements and fix any correctable errors to the Offset Project Data Report, the verification body must issue an Adverse Offset Verification Statement. The offset verification team shall use professional judgment in the determination of correctable errors, including whether differences are not errors but result from truncation or rounding. The offset verification team must document in the issues log the source of any difference identified, including whether the difference results in a correctable error. Documentation for all Offset Project Data Report submittals must be retained by the Offset Project Operator or Authorized Project Designee for the length of time specified in this section.
- (xiv) To verify that the Offset Project Data Report is free of offset material misstatement, the offset verification team must make its own determination of GHG reductions or GHG removal enhancements relative to the project baseline using the data check, and must determine whether there is reasonable assurance that the Offset Project Data Report does not contain an offset material misstatement for the Offset Project Operator or Authorized Project Designee, on a CO<sub>2</sub>e basis. To assess conformance with this article and the Compliance Offset Protocol the offset verification team must review the methods and factors used to develop the Offset Project Data Report for adherence to the requirements of this article and the Compliance Offset Protocol and ensure that other requirements of this article are met.
- (xv) Issues Log. The offset verification team must keep a log of any issues identified in the course of offset verification services that may affect determinations of offset material misstatement and nonconformance. The issues log must identify the section of this article or Compliance Offset Protocol related to the nonconformance, if applicable, and indicate whether the issues were corrected by the Offset Project Operator or

Authorized Project Designee prior to completing the offset verification services. Any other concerns that the offset verification team has with the preparation of the Offset Project Data Report must be documented in the issues log. The issues log must indicate whether the issues could have any bearing on offset material misstatement or conformance.

- (xvi) An assessment of offset material misstatement is conducted for net GHG reductions and GHG removal enhancements achieved in a given Reporting Period relative to the project baseline in that Reporting Period in metric tons of CO<sub>2</sub>e.
- (xvii) The offset verification team must determine whether the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report contain an offset material misstatement using the following equation:

$$\frac{[\sum \text{Discrepancies} + \sum \text{Omissions} + \sum \text{Misreporting}] \times 100\%}{\text{Percent error}} =$$

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*Total Reported Emission Reductions and Removal Enhancements*

Where:

“Discrepancies” means any differences between the reported GHG value for sources, sinks, and reservoirs for the project baseline or project, and the verifier calculated GHG value for a data source subject to data checks calculated by the offset verification team. Any discrepancies identified must include the positive or negative impact of the GHG source, sink, or reservoir on the total reported GHG emission reductions and removal enhancements when input into the offset material misstatement equation.

“Omissions” means any GHG emissions or removal enhancements associated with required sources, sinks, and reservoirs for the project baseline or project emissions, that the offset verification team concludes must be part of the Offset Project Data Report, but were not included by the Offset Project Operator or Authorized Project Designee in the Offset Project Data Report. Any omissions found by the offset verification team must include the positive or negative impact of the omission on the total reported GHG emission reductions and removal enhancements when input into the offset material misstatement equation.

“Misreporting” means duplicative, incomplete, or other GHG emissions or removal enhancements for required sources, sinks, and reservoirs in the project baseline or project emissions, the offset verification team concludes should, or should not, be part of the Offset Project Data Report. Any misreporting found by the offset verification team must include the positive or negative impact of the misreporting on the total reported GHG

emission reductions and removal enhancements when input into the offset material misstatement equation.

“Total reported emission reductions and removal enhancements” means net GHG reductions and GHG removal enhancements reported by the Offset Project Operator or Authorized Project Designee for an Offset Project Data Report relative to the project baseline for that Offset Project Data Report in metric tons CO<sub>2</sub>e.

- (xviii) Offset verification services are not complete until Ecology offset credits are issued for the GHG emission reductions and GHG removal enhancements reported in an Offset Project Data Report. Offset verification services must include:
- (A) Offset Verification Statement. Prior to completion of the offset verification services, the verification body must complete an Offset Verification Statement for each Offset Project Data Report for which offset verification services were conducted and provide it to the Offset Project Operator or Authorized Project Designee and Ecology or the Offset Project Registry by the verification deadline. Before the Offset Verification Statement is completed, the verification body must have the offset verification services and findings of the offset verification team independently reviewed within the verification body by an independent reviewer not involved in offset verification services for that offset project. The independent reviewer may not be the offset project specific verifier, and may not accompany the offset verification team on a site visit. The independent reviewer may conduct a separate site visit, if necessary.
  - (B) The independent reviewer shall serve as the final check of the offset verification team’s work to identify any significant concerns, including:
    - (I) Errors in planning;
    - (II) Errors in data sampling; and
    - (III) Errors in judgment by the offset verification team that are related to the draft offset verification statement.
  - (C) The independent reviewer must maintain independence from the offset verification services by not making specific recommendations about how the offset verification services should be conducted. The independent reviewer will review documents applicable to the offset verification services provided and identify any failure to comply with the requirements of this article or with the verification body’s internal policies and procedures for providing offset verification services. The independent reviewer must concur with the offset verification findings before the Offset Verification Statement can be issued.
  - (D) When the offset verification team completes its findings:

- (I) The verification body must provide to the Offset Project Operator or Authorized Project Designee a detailed verification report for each Offset Project Data Report for which offset verification services were conducted. The detailed verification report must at a minimum include the Offset Verification Plan, the detailed comparison of the data checks conducted during offset verification services, including the required narrative, the issues log identified in the course of offset verification activities and the issue resolutions, and any qualifying comments on findings during offset verification services. The detailed verification report must also include the calculations performed with enough detail to understand the relationships between the data checks and the offset material misstatement evaluation, and be made available to Ecology within 10 calendar days upon request. If the Offset Verification Statement is being submitted to an Offset Project Registry, then the verification body must submit the detailed verification report to the Offset Project Registry with the Offset Verification Statement. The detailed verification report must be submitted to the Offset Project Operator or Authorized Project Designee at the same time or before the Offset Verification Statement is submitted to Ecology or the Offset Project Registry.
- (II) The verification body must provide the Offset Verification Statement to the Offset Project Operator or Authorized Project Designee and Ecology or the Offset Project Registry, attesting to Ecology whether the verification body has found the submitted Offset Project Data Report to be free of offset material misstatement, and whether the Offset Project Data Report is in conformance with the requirements of this article and the Compliance Offset Protocol.
- (III) A Compliance Offset Protocol may restrict the use of a Qualified Positive Offset Verification Statement for certain project types, in which case the verification body must submit either a Positive Offset Verification Statement or an Adverse Offset Verification Statement. In the case of a Qualified Positive Offset Verification Statement, when not restricted by a Compliance Offset Protocol, the verification body will qualify the Offset Verification Statement to indicate any nonconformances allowed for a qualified Positive Offset Verification Statement contained within the Offset Project Data Report and that these nonconformances do not result in an offset material misstatement.

- (IV) The offset verification team must have a final discussion with the Offset Project Operator or Authorized Project Designee explaining their findings and notifying the Offset Project Operator or Authorized Project Designee of any unresolved issues noted in the issues log before the Offset Verification Statement is finalized and submitted to the Offset Project Registry or Ecology.
- (V) The lead verifier in the offset verification team must attest to Ecology in the Offset Verification Statement that the offset verification team has carried out all offset verification services as required by this article, and the lead verifier who has conducted the independent review of offset verification services and findings must attest to his or her independent review on behalf of the verification body and his or her concurrence with the offset verification findings.
- (VI) The lead verifier must attest in the Offset Verification Statement, in writing, to Ecology as follows: “I certify under penalty of perjury under the laws of the State of Washington that the offset verification team has carried out all offset verification services as required and the applicable Compliance Offset Protocol and the findings are true, accurate, and complete and have been independently reviewed by an independent reviewer.”
- (E) Prior to the verification body providing an Adverse Offset Verification Statement to Ecology or the Offset Project Registry, the Offset Project Operator or Authorized Project Designee must be provided at least 10 working days to modify the Offset Project Data Report to correct any offset material misstatement or nonconformance found by the offset verification team. The modified Offset Project Data Report and Offset Verification Statement must be submitted to Ecology or the Offset Project Registry by the applicable verification deadline, unless the Offset Project Operator or Authorized Project Designee makes a request to Ecology.
- (F) If the Offset Project Operator or Authorized Project Designee and the verification body cannot reach agreement on modifications to the Offset Project Data Report that result in a Positive Offset or Qualified Positive Offset Verification Statement due to a disagreement on the requirements of this article or Compliance Offset Protocol, the Offset Project Operator or Authorized Project Designee may petition Ecology to make a decision as to the verifiability of the submitted Offset Project Data Report.
- (G) If Ecology determines that the Offset Project Data Report does not meet the standards and requirements specified in this article, the Offset Project Operator or Authorized Project Designee must provide any additional information within 30 calendar days of the



Ecology determination. Ecology will review the new information and notify the Offset Project Operator or Authorized Project Designee and verification body of its final decision. In re-verifying a revised Offset Project Data Report, the verification body and offset verification team shall be subject to the requirements of this section. and must submit the revised Offset Verification Statement to Ecology or the Offset Project Registry within 15 calendar days.

- (xix) If Ecology or the Offset Project Registry determines that the detailed verification report does not contain sufficient information to substantiate the attestations in the Offset Verification Statement, then the verification body must submit a revised verification report and a revised Offset Verification Statement to Ecology or the Offset Project Registry within 15 calendar days of the determination.
- (xx) Upon submission of the Offset Verification Statement to Ecology or the Offset Project Registry, the Offset Project Data Report must be considered final and no further changes may be made by the Offset Project Operator or Authorized Project Designee unless the Offset Project Registry or Ecology requests any changes as part of their review. Once Ecology offset credits are issued for the Offset Project Data Report, all offset verification requirements of this article shall be considered complete for the applicable Offset Project Data Report.
- (xxi) If Ecology finds a high level of conflict of interest existed between a verification body and an Offset Project Operator or Authorized Project Designee, or an Offset Project Data Report that received a Positive Offset or Qualified Positive Offset Verification Statement fails an Ecology audit, Ecology may set aside the Positive Offset or Qualified Positive Offset Verification Statement submitted by the verification body and require the Offset Project Operator or Authorized Project designee to have the Offset Project Data Report re-verified by a different verification body within 90 calendar days of this finding. Upon request by Ecology or the Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide the data used to generate an Offset Project Data Report, including all data available to the offset verification team in the conduct of offset verification services, within 10 working days of the request.
- (xxii) Upon request by Ecology or the Offset Project Registry the verification body must provide Ecology or the Offset Project Registry the detailed verification report given to the Offset Project Operator or Authorized Project Designee, as well as the sampling plan, contracts for offset verification services, and any other supporting documentation. All documentation must be provided by the verification body to Ecology or the Offset Project Registry within 10 working days of the request.
- (xxiii) Upon written notification by Ecology the verification body and its staff must be available for an offset verification services audit when providing

offset verification services for an offset project listed with Ecology or an Offset Project Registry using a Compliance Offset Protocol.

- (4) In addition to meeting the offset verification requirements Offset Project Operators or Authorized Project Designees must ensure the GHG emission reductions and GHG removal enhancements resulting from an offset project meet any additional verification requirements in the Compliance Offset Protocol, if applicable, for an offset project of that type.

**WAC 173-446-540. Offset Verifier and Verification Body Accreditation.**

- (1) An offset verifier or verification body must meet the accreditation requirements in WAC 441-XXX to provide offset verification services to verify GHG emission reductions and GHG removal enhancements for offset projects listed pursuant to this article. Accreditation of verification bodies and offset verifiers for verifying Offset Project Data Reports under this article must be achieved separately from accreditation for verifying reports submitted under WAC 441.
- (2) For purposes of this article, the subcontractor requirements of WAC 441 must be applied to the Offset Project Operator and/or Authorized Project Designee and not a reporting party.
- (3) An Ecology accredited verification body must make itself and its personnel available for an Ecology audit.
- (4) An Ecology-accredited offset verification body may employ or contract with technical experts not accredited by Ecology to assist with offset verification services.
  - (a) All technical experts must be listed on the Notice of Offset Verification Services and must be included in the evaluation for conflict of interest.
  - (b) Technical experts must be under the direct supervision of an Ecology- accredited offset verifier while performing verification activities.
  - (c) Technical experts may assist in underlying offset verification tasks, but may not be responsible for completing any offset verification services.
- (5) “Direct supervision,” for purposes of this section, means daily, on-site, close contact with an Ecology-accredited verifier acting as a supervisor to a technical expert during a site visit, who is able to respond to the needs of the technical expert. During a site visit, the supervisor must be physically present, or within 4 hours travel time and available to respond to the needs of the technical expert.
- (6) “Technical expert,” for purposes of this section, means a person, who is not an Ecology-accredited verifier, and has demonstrated expertise in a particular technical area for which the person hired by the verification body to assist with underlying offset verification task(s) that require a particular expertise. A technical expert may be an employee of the verification body working to get the required experience to become an Ecology-accredited verifier.

**WAC 173-446-545. Conflict of Interest Requirements for Verification Bodies and Offset Verifiers for Verification of Offset Project Data Reports.**

- (1) The conflict of interest provisions of this section shall apply to verification bodies, lead verifiers, and offset verifiers accredited by Ecology to perform offset verification services

for Offset Project Operators, and Authorized Project Designees, if applicable, as well as any other member of the offset verification team and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable.

- (2) “Member” for the purposes of this section means any employee or subcontractor of the verification body or related parties of the verification body. “Member” also includes any individual with majority equity share in the verification body or its related parties.
- (3) “Related party” for the purposes of this section means any direct parent company, direct subsidiary, or sister company.
- (4) “Non-offset verification services” for purposes of this section do not include independent, third-party certification or verification services which have been provided for Ecology or any other voluntary or mandatory program; such certification and verification services may be counted as offset verification services for the purposes of this section.
- (5) The potential for a conflict of interest must be deemed to be high where:
  - (a) The verification body and Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) share any senior management staff or board of directors membership, or any of the senior management staff of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) have been employed by the verification body, or vice versa, within the previous three years; or
  - (b) Within the previous five years, any staff member of the verification body or any related party or any member of the offset verification team has provided to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) any of the following non-offset verification services:
    - (i) Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions or development of a forest management plan, or timber harvest plan, unless the review was part of providing GHG offset verification services;
    - (ii) Developing GHG emission factors or other GHG-related engineering analysis, including developing or reviewing a Washington State Environmental Policy Act (SEPA) GHG analysis that includes offset project specific information;
    - (iii) Designing energy efficiency, renewable power, or other projects which explicitly identify GHG reductions and GHG removal enhancements as a benefit;
    - (iv) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and GHG removal enhancements;
    - (v) Owning, buying, selling, trading, or retiring shares, stocks, or Ecology offset credits or registry offset credits from the offset project;
    - (vi) Dealing in or being a promoter of Ecology offset credits or registry offset credits on behalf of an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
    - (vii) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

- (viii) Appraisal services of carbon or GHG liabilities or assets;
  - (ix) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;
  - (x) Directly responsible for developing any health, environment or safety policies for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
  - (xi) Bookkeeping or other services related to the accounting records or financial statements;
  - (xii) Any service related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification), unless those systems will not be reviewed as part of the offset verification process;
  - (xiii) Appraisal and valuation services, both tangible and intangible;
  - (xiv) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the information reviewed in formulating the Offset Verification Statement will not be reviewed as part of the offset verification services;
  - (xv) Any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;
  - (xvi) Any internal audit service that has been outsourced by the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that relates to the Offset Project Operator's,
  - (xvii) Authorized Project Designee's, if applicable, and their technical consultant(s) internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;
  - (xviii) Acting as a broker-dealer (registered or unregistered), promoter, or underwriter on behalf of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
  - (xix) Any legal services; and
  - (xx) Expert services to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s) interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.
  - (xxi) The potential for conflict of interest will be deemed to be high when any member of the verification body provides any type of incentive to an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) to secure an offset verification services contract.
- (6) The potential for a conflict of interest will also be deemed to be high where any member of the verification body has provided offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s)

except within the time periods in which the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) is allowed to use the same verification body.

- (a) The potential for a conflict of interest must be deemed to be low where no potential for a conflict of interest is found and any nonoffset verification services provided by any member of the verification body to the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee within the last five years are valued at less than 20 percent of the fee for the proposed offset verification, except where medium conflict of interest related to personal, employment, or family relationships is identified.
  - (b) The potential for a conflict of interest must be deemed to be medium where the potential for a conflict of interest is not deemed to be either high or low, or where there are any instances of personal, employment, or familial relationships between the verification body and management or employees of the Offset Project Operator or Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee and when a conflict of interest self-evaluation is submitted. For purposes of this section only, “employment” means the condition of having paid work documented in a W-2 form. If a verification body identifies a medium potential for conflict of interest and intends to provide offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee for an offset project listed with Ecology or an Offset Project Registry, the verification body must submit, in addition to the submittal requirements specified in this section, a plan to avoid, neutralize, or mitigate the potential conflict of interest situation. At a minimum, the conflict of interest mitigation plan must include:
    - (i) A demonstration that any members with potential conflicts have been removed and insulated from the project;
    - (ii) An explanation of any changes to the organizational structure or verification body to remove the potential conflict of interest. A demonstration that any unit with potential conflicts has been divested or moved into an independent party or any subcontractor with potential conflicts has been removed; and
    - (iii) Any other circumstance that specifically addresses other sources for potential conflict of interest.
- (7) Conflict of Interest Submittal Requirements for Accredited Verification Bodies. Before providing any offset verification services, the verification body must submit to the Offset Project Operator, and Authorized Project Designee, if applicable, Ecology and the Offset Project Registry, a self-evaluation of the potential for any conflict of interest that the verification body, its staff, its related parties, or any subcontractors performing offset verification services may have with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) for which it will perform offset verification services. Offset verification services shall not commence prior to approval of

the conflict of interest self-evaluation by Ecology or the Offset Project Registry. The submittal must include the following:

- (a) Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified in this section;
- (b) Identification of whether any member of the offset verification team has previously provided offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), and, if so, the years in which such offset verification services were provided; and
- (c) Identification of whether any member of the offset verification team or related party has engaged in any non-offset verification services of any nature with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) either within or outside California during the previous five years. If non-offset verification services have previously been provided, the following information must also be submitted:
  - (i) Identification of the nature and location of the work performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) and whether the work is similar to the type of work to be performed during offset verification;
  - (ii) The nature of past, present, or future relationships with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), including:
    - (A) Instances when any member of the offset verification team has performed or intends to perform work for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);
    - (B) Identification of whether work is currently being performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), and if so, the nature of the work;
    - (C) How much work was performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) in the last five years, in dollars;
    - (D) Whether any member of the offset verification team has any contracts or other arrangements to perform work for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a related party; and
    - (E) How much work related to GHG reductions and GHG removal enhancements the offset verification team has performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or related parties in the last five years, in dollars;
  - (iii) Explanation of how the amount and nature of work previously performed is such that any member of the offset verification team's credibility and lack of bias should not be under question;
  - (iv) A list of names of the staff that would perform offset verification services for the Offset Project Operator, and Authorized Project Designee, if

- applicable, and a description of any instances of personal, employment, or family relationships with management or employees of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that potentially represent a conflict of interest;
- (v) Identification of any other circumstances known to the verification body, or Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that could result in a conflict of interest; and
  - (vi) Attest, in writing, to Ecology as follows: “I certify under penalty of perjury of the laws of the State of Washington the information provided in the Conflict of Interest submittal is true, accurate, and complete.”
- (8) Approval of Conflict of Interest Submittals. Ecology or the Offset Project Registry must review the self-evaluation submitted by the verification body and determine whether the verification body is authorized to perform the offset verification services for the Offset Project Operator and Authorized Project Designee, if applicable.
- (a) Ecology or the Offset Project Registry has 30 calendar days to make a determination whether to accept or deny the conflict of interest submittal and notify the verification body whether it may proceed with the offset verification services for the Offset Project Operator and Authorized Project Designee, if applicable.
    - (i) If Ecology or an Offset Project Registry requests revisions to the conflict of interest self evaluation prior to approval, the verification body must resubmit the revised conflict of interest self evaluation within 10 working days of such request, or if there is a reason the verification body cannot submit the revisions within 10 working days, the verification body must communicate to Ecology and the Offset Project Registry, in writing, as to the reasons why and get approval from Ecology or the Offset Project Registry for an extension.
    - (ii) If Ecology or the Offset Project Registry determines that the verification body or any member of the offset verification team meets the criteria in this section Ecology or the Offset Project Registry shall find a high potential conflict of interest and offset verification services may not proceed.
    - (iii) If Ecology or the Offset Project Registry determines that there is a low potential conflict of interest, offset verification services may proceed.
    - (iv) If Ecology or the Offset Project Registry determines that the verification body or any member of the offset verification team have a medium potential for conflict of interest, Ecology or the Offset Project Registry shall evaluate the conflict of interest mitigation plan submitted by the verification body, and may request additional information from the applicant to complete the determination.
    - (v) In determining whether offset verification services may proceed, Ecology or the Offset Project Registry may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body, related parties, and its subcontractors with the Offset Project Operator and Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset

Project Operator or Authorized Project Designee, and related parties, and the cost of the offset verification services to be performed. If Ecology or the Offset Project Registry determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, Ecology or the Offset Project Registry will authorize the verification body to provide offset verification services.

- (b) If the offset project was listed with an Offset Project Registry, the conflict of interest self evaluation acceptance or denial notification will be given by the Offset Project Registry. Within 15 calendar days of approving a conflict of interest self-evaluation, the Offset Project Registry must notify Ecology in writing of the date on which it approved the self evaluation.
  - (c) When a conflict of interest self-evaluation is updated before or during offset verification services to add a verification team member, Ecology or the Offset Project Registry must approve the updated self-evaluation before any new team member participates in offset verification services. Within 15 calendar days of approving an updated self-evaluation, the Offset Project Registry must notify Ecology in writing of the date on which it approved the updated self evaluation.
- (9) Monitoring Conflict of Interest Situations.
- (a) After commencement of offset verification services, the verification body must monitor and immediately make full disclosure, in writing, to Ecology and the Offset Project Registry regarding any potential for a conflict of interest situation that arises for an offset project using a Compliance Offset Protocol. This disclosure must include a description of actions that the verification body has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.
  - (b) The verification body must continue to monitor arrangements or relationships that may be present for a period of one year after the completion of offset verification services for an offset project using a Compliance Offset Protocol. During that period, within 30 days of the verification body or any verification team member entering into any contract with the Offset Project Operator, and Authorized Project Designee, if applicable, for which the verification body has provided offset verification services, the verification body must notify Ecology and the Offset Project Registry of the contract and the nature of the work to be performed. Ecology or the Offset Project Registry, within 30 working days, will determine the level of conflict using the criteria in this section, if the Offset Project Operator, and Authorized Project Designee, if applicable, must re-verify their Offset Project Data Report, and if accreditation revocation is warranted by Ecology.
  - (c) The verification body must notify Ecology and the Offset Project Registry within 30 calendar days, of any emerging conflicts of interest during the time offset verification services are being provided for an offset project using a Compliance Offset Protocol.
    - (i) If Ecology or the Offset Project Registry determines that an emerging potential conflict disclosed by the verification body is medium risk, and this risk can be mitigated, then the verification body meets the conflict of interest requirements to continue to provide offset verification services for



the Offset Project Operator, and Authorized Project Designee, if applicable, and will not be subject to suspension or revocation of accreditation as specified in WAC 441.

- (ii) If Ecology or the Offset Project Registry determines that an emerging potential conflict disclosed by the verification body is medium or high risk, and this risk cannot be mitigated, then the verification body will not be able to continue to provide offset verification services for the Offset Project Operator, and Authorized Project Designee, if applicable, and may be subject to the suspension or revocation of accreditation by Ecology under WAC 441.
- (d) The verification body must report to Ecology and the Offset Project Registry, if applicable, any changes in its organizational structure, including mergers, acquisitions, or divestitures, for one year after completion of offset verification services.
- (e) Ecology may void a Positive Offset or Qualified Positive Offset Verification Statement if it discovers a potential conflict of interest has arisen for any member of the offset verification team. In such a case, the Offset Project Operator, and Authorized Project Designee, if applicable, shall be provided 90 calendar days to complete re-verification.
- (f) If the verification body or its subcontractor(s) are found to have violated the conflict of interest requirements of this article, Ecology may rescind accreditation of the body, its verifier staff, or its subcontractor(s) for any appropriate period of time as provided in WAC 441.

#### **WAC 173-446-550. Issuance of Registry Offset Credits.**

- (1) One registry offset credit, which represents one metric ton of CO<sub>2</sub>e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued pursuant to this section only if:
  - (a) An Offset Project Registry has listed the offset project;
  - (b) The GHG emission reductions or GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement; and
  - (c) An Offset Project Registry has received a Positive Offset or Qualified Positive Offset Verification Statement issued and attested to by an Ecology-accredited verification body for the Offset Project Data Report for which registry offset credits would be issued.
- (2) An Offset Project Registry will determine whether the GHG emission reductions and GHG removal enhancements meet the necessary requirements, the information submitted is complete, and the Positive Offset or Qualified Positive Offset Verification Statement meets the requirements of this section within 45 calendar days of receiving it.
- (3) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through an Offset Project Registry. The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by an Offset Project Registry, unless otherwise specified in the applicable Compliance Offset Protocol. An early action offset project

that transitioned pursuant to the Program for Recognition of Early Action Offset Credits is considered to have begun its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under a Compliance Offset Protocol took place according to the first Positive Offset or Qualified Positive Offset Verification Statement that was received by Ecology.

- (4) Determination for Timing and Duration of Renewed Crediting for Offset Projects Submitted through an Offset Project Registry. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

#### **WAC 173-446-555. Issuance of Ecology Offset Credits.**

- (1) One Ecology offset credit, which represents one metric ton of CO<sub>2</sub>e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued only for a GHG emission reduction or GHG removal enhancement that occurs during a Reporting Period. One Ecology offset credit will be issued for each metric ton of CO<sub>2</sub>e only if:
  - (a) Ecology or an Offset Project Registry has listed the offset project;
  - (b) The GHG emission reductions and GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement;
  - (c) Ecology or an Offset Project Registry has received a Positive Offset or Qualified Positive Offset Verification Statement issued and attested to by an Ecology accredited verification body for the Offset Project Data Report for which registry offset credits were issued if the offset project was submitted for listing with an Offset Project Registry, or for which Ecology offset credits would be issued; and
  - (d) The issued Ecology offset credits would not immediately be subject to invalidation.
- (2) Requirements for Offset Projects Submitted Through an Offset Project Registry Seeking Issuance of Ecology Offset Credits. The Offset Project Operator, or Authorized Project Designee, if applicable, must submit a request for issuance of Ecology offset credits to Ecology for each Offset Project Data Report for which they are seeking issuance of Ecology offset credits identifying which Holding Accounts the Ecology offset credits should be placed into and how many Ecology offset credits will be placed into each Holding Account. The Offset Project Operator or Authorized Project Designee may request that Ecology offset credits are placed into the Holding Account of any party not prohibited to hold compliance instruments. Any party receiving Ecology offset credits at the time of Ecology offset credit issuance must have a tracking system account with Ecology.
  - (a) An Offset Project Operator or Authorized Project Designee may request that only a portion of the eligible GHG reductions and removal enhancements for the applicable Reporting Period be issued Ecology offset credits in the request for issuance.
  - (b) If the offset project was listed by an Offset Project Registry, the request for issuance of Ecology offset credits may not be provided to Ecology until the Offset Project Registry has issued registry offset credits for the applicable Offset Project Data Report(s).
- (3) Ecology will determine whether the GHG emission reductions and GHG removal enhancements meet the requirements of this chapter and the applicable Compliance

- Offset Protocol, the information submitted is complete, and the Positive Offset or Qualified Positive Offset Verification Statement meets the requirements within 45 calendar days of receiving complete and accurate information.
- (4) Before Ecology issues an Ecology offset credit for GHG reductions and GHG removal enhancements achieved by an offset project in a Reporting Period, the Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account must attest, in writing, to Ecology as follows:
- (a) "I certify under penalty of perjury under the laws of the State of Washington the GHG reductions or GHG removal enhancements for [project] from [date] to [date] have been measured in accordance with the [appropriate Ecology Compliance Offset Protocol] and all information required to be submitted to Ecology is true, accurate, and complete.";
  - (b) "I understand I am voluntarily participating in the [Washington cap and invest program], and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this program and subject myself to the jurisdiction of Washington as the exclusive venue to resolve any and all disputes arising from the enforcement of provisions in this article.";
  - (c) "I understand that the offset project activity and implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety regulations that apply based on the offset project location. I understand that offset projects are not eligible to receive Ecology or registry offset credits for GHG reductions and GHG removal enhancements that are not in compliance with the requirements of this chapter.
  - (d) "I certify under penalty of perjury under the laws of the State of Washington all information provided to Ecology for issuance of Ecology offset credits is true, accurate, and complete."; and
  - (e) "I certify under penalty of perjury under the laws of the State of Washington that the GHG reductions and GHG removal enhancements for which I am seeking Ecology Offset Credits have not been issued any offset credits or been used for any GHG mitigation requirements in any other voluntary or mandatory program, except, if applicable, an Offset Project Registry pursuant to this section."
- (5) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through Ecology. The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by Ecology, unless otherwise specified in a Compliance Offset Protocol.
- (6) Determination for Timing and Duration of Renewed Crediting for Offset Projects Submitted Through Ecology. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

**WAC 173-446-560. Process for Issuance of Ecology Offset Credits.**

- (1) Ecology will issue an Ecology offset credit for GHG reductions and removal enhancements achieved in a Reporting Period for an offset project that meets the requirements of this section to the Ecology Issuance Account , no later than 15 calendar

- days after Ecology makes a determination pursuant to this section, as long as all required attestations have been received by Ecology prior to its determination.
- (2) Change of Listing Status at Ecology. When Ecology issues an Ecology offset credit for an offset project, the listing status for that offset project will be changed from “Active Registry Project” to “Active Ecology Project” or “Active Registry Renewal” to “Active Ecology Renewal” at the Offset Project Registry and Ecology.
  - (3) Notice of Issuance of Ecology Offset Credits. Not later than five working days after Ecology issues an Ecology offset credit, Ecology will notify the Offset Project Operator or Authorized Project Designee of the issuance of Ecology offset credits.
  - (4) Requests for Additional Information. Ecology may request additional information for offset projects submitted through an Offset Project Registry seeking issuance of Ecology offset credits.
    - (a) Ecology will notify the Offset Project Operator, Authorized Project Designee, or other third party within 15 calendar days of its determination if the information submitted is incomplete and request additional specific information.
    - (b) Ecology may request any additional information from the Offset Project Operator, Authorized Project Designee, Offset Project Registry, or verification body before issuing Ecology offset credits for an offset project that meets the requirements of this section. The Offset Project Operator, Authorized Project Designee, Offset Project Registry, or verification body must submit the requested information to Ecology within 10 calendar days of Ecology’s request.
    - (c) If Ecology determines the information submitted does not meet the requirements for issuance of Ecology offset credits, then Ecology may deny issuance of Ecology offset credits. The Offset Project Operator or Authorized Project Designee may petition Ecology within 10 days of denial for a review of submitted information and respond to any issues that prevent the issuance of Ecology offset credits.
    - (d) Ecology must make a final determination within 30 calendar days of receiving the request and may request additional information from the Offset Project Operator or Authorized Project Designee, verification body, or Offset Project Registry.
  - (5) A registry offset credit issued must be removed or cancelled by the Offset Project Registry within one year after Ecology issues an Ecology offset credit pursuant to this section, such that the registry offset credit is no longer available for transaction on the Offset Project Registry system. Within five working days of the removal or cancellation of registry offset credits, the Offset Project Registry must provide proof to Ecology that the registry offset credits have been permanently removed or cancelled from the registry system. If registry offset credits are not cancelled within one year, Ecology will cancel the Ecology offset credits. Ecology offset credits cancelled may not be reissued.
  - (6) Receipt of Ecology Offset Credits. Ecology will transfer Ecology offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or any other third party requested by the Offset Project Operator to receive Ecology offset credits, within 15 working days of the Offset Project Registry providing proof to Ecology that the registry offset credits have been permanently removed or cancelled from the registry system.

**WAC 173-446-565. Registration of Ecology Offset Credits.**

- (1) An Ecology offset credit will be registered by:
  - (a) Creating a unique Ecology serial number; and
  - (b) Transferring the Ecology offset credits to the Holding Account of the listed Offset Project Operator, Authorized Project Designee, or another third party as requested by the Offset Project Operator to receive Ecology offset credits, unless otherwise required by a forestry offset reversal.

**WAC 173-446-570. Forestry Offset Reversals.**

- (1) For forest sequestration projects, a portion of Ecology offset credits issued to the forest offset project will be placed by Ecology into the Forest Buffer Account.
  - (a) The amount of Ecology offset credits that must be placed in the Forest Buffer Account shall be determined as set forth in the applicable version of the Compliance Offset Protocol.
  - (b) Ecology offset credits will be transferred to the Forest Buffer Account by Ecology at the time of Ecology offset credit registration.
  - (c) If a forest offset project is originally submitted through an Offset Project Registry an equal number of registry offset credits must be removed or cancelled by the Offset Project Registry, such that the registry offset credit is no longer available for transaction on the Offset Project Registry system, and issued by Ecology for placement in the Forest Buffer Account.
  - (d) The Ecology offset credits placed into the Forest Buffer Account must correspond to the Reporting Period for which the Ecology offset credits are issued.
- (2) Unintentional Reversals. If there has been an unintentional reversal, the Offset Project Operator or Authorized Project Designee must notify Ecology and the Offset Project Registry, in writing, of the reversal and provide an explanation for the nature of the unintentional reversal within 30 calendar days of its discovery.
  - (a) In the case of an unintentional reversal the Offset Project Operator or Authorized Project Designee shall provide in writing to Ecology and an Offset Project Registry, if applicable, a completed verified estimate of current carbon stocks within the offset project boundary within 23 months of the discovery of the unintentional reversal. To determine the verified estimate of current carbon stocks a full offset verification must be conducted, including a site visit. The verified estimate may be submitted as a separate offset verification services, or incorporated into a chapter of the detailed verification report when offset verification services are conducted for an Offset Project Data Report. After an unintentional reversal, the Offset Project Operator or Authorized Project Designee does not need to submit an Offset Project Data Report until the required verified estimate of current carbon stocks within the offset project boundary is completed.
  - (b) If Ecology determines that there has been an unintentional reversal, and Ecology offset credits have been issued to the offset project, Ecology will retire a quantity of Ecology offset credits from the Forest Buffer Account. Ecology will retire Ecology offset credits in the amount of metric tons CO<sub>2</sub>e reversed for all Reporting Periods.
- (3) Intentional Reversals. Requirements for intentional reversals are as follows:

- (a) If an intentional reversal occurs, the Offset Project Operator or Authorized Project Designee shall, within 30 calendar days of the intentional reversal:
  - (i) Give notice, in writing, to Ecology and the Offset Project Registry, if applicable, of the intentional reversal; and
  - (ii) Provide a written description and explanation of the intentional reversal to Ecology and the Offset Project Registry, if applicable.
- (b) Within one year of the occurrence of an intentional reversal, the Offset Project Operator or Authorized Project Designee shall submit to Ecology and the Offset Project Registry, if applicable, a completed verified estimate of current carbon stocks within the offset project boundary. To determine the verified estimate of current carbon stocks a full offset verification must be conducted, including a site visit. The verified estimate may be submitted as a separate offset verification services, or incorporated into a chapter of the detailed verification report when offset verification services are conducted for an Offset Project Data Report.
- (c) If an intentional reversal occurs from a forest offset project, and Ecology offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to Ecology for placement in the Retirement Account a quantity of valid Ecology offset credits or other approved compliance instruments within six months of notification by Ecology. The forest owner must turn in valid compliance instruments in the amount of metric tons CO<sub>2</sub>e reversed for all Reporting Periods.
- (d) Notification by Ecology will occur after the verified estimate of carbon stocks has been submitted to Ecology, or after one year has elapsed since the occurrence of the reversal if the Offset Project Operator or Authorized Project Designee fails to submit the verified estimate of carbon stocks.
- (e) If the forest owner does not submit valid Ecology offset credits or other approved compliance instruments in the amount required to Ecology within six months of notification by Ecology, Ecology will retire a quantity of Ecology offset credits equal to the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of retired approved compliance instruments from the Forest Buffer Account and the forest owner will be subject to enforcement action and each Ecology offset credit retired from the Forest Buffer Account will constitute a separate violation.
- (f) Early Project Terminations. If a project termination, as defined in the Compliance Offset Protocol, occurs from a compliance forest offset project, and Ecology offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to Ecology for placement in the Retirement Account a quantity of valid Ecology offset credits or other approved compliance instruments in the amount equal to the number of Ecology offset credits issued to the offset project for each Reporting Period, except for improved forest management forest offset projects. If the project is an improved forest management forest offset project, the amount of metric tons CO<sub>2</sub>e reversed must be multiplied by the compensation rate in the Compliance Offset Protocol.

- (i) Ecology will notify the forest owner of how many Ecology offset credits must be replaced with valid compliance instruments.
  - (ii) The forest owner must submit to Ecology for placement in the Retirement Account a valid Ecology offset credit or another approved compliance instrument for each Ecology offset credit required to be replaced within six months of Ecology's retirement.
  - (iii) If the forest owner does not submit valid Ecology offset credits or other approved compliance instruments to Ecology in the amount required within six months of Ecology's retirement, Ecology will retire a quantity of Ecology offset credits equal to the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of retired approved compliance instruments from the Forest Buffer Account and they will be subject to enforcement action and each Ecology offset credit retired from the Forest Buffer Account will constitute a separate violation.
- (4) Disposition of Forest Sequestration Projects After a Reversal. If a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by Ecology or an Offset Project Registry.
- (a) If the forest offset project is terminated due to an unintentional reversal, Ecology will retire from the Forest Buffer Account a quantity of Ecology offset credits equal to the total number of Ecology offset credits issued pursuant to this section, and where applicable, all Ecology offset credits issued to the offset project pursuant to the Program for Recognition of Early Action Offset Credits, over the preceding 100 years.
  - (b) If the forest offset project is terminated due to an unintentional reversal, another offset project may be initiated and submitted to Ecology or an Offset Project Registry for listing within the same offset project boundary.
  - (c) If the forest offset project has experienced an unintentional reversal and its actual standing live carbon stocks are still above the approved baseline levels, it may continue without termination as long as the unintentional reversal has been compensated by the Forest Buffer Account. The Offset Project Operator or Authorized Project Designee must continue contributing to the Forest Buffer Account in future years.
  - (d) If the forest offset project is terminated due to any reason except an unintentional reversal, new offset projects may not be initiated within the same offset project boundary, unless otherwise specified in a Compliance Offset Protocol.
- (5) Change of Forest Owner or Offset Project Operator. When a Forest Owner or Offset Project Operator changes, whether by merger, acquisition, or any other means, the successor Forest Owner or Offset Project Operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor Forest Owner or Offset Project Operator to submit compliance instruments. For the avoidance of doubt, this obligation of the successor Forest Owner or Offset Project Operator, as applicable, consists of the difference between the number of metric tons of CO<sub>2</sub>e determined pursuant to this section and the number of valid Ecology offset credits or other approved compliance instruments submitted by the predecessor forest owner.

**WAC 173-446-575. Ownership and Transferability of Ecology Offset Credits.**

- (1) Initial ownership of an Ecology offset credit will be with the registered Offset Project Operator, Authorized Project Designee, or another third party as requested by the Offset Project Operator to receive Ecology offset credits, unless otherwise required. An Ecology offset credit may be sold, traded, or transferred, unless:
  - (a) It has been retired, surrendered for compliance, or used to meet any GHG mitigation requirements in any voluntary or regulatory program;
  - (b) It resides in the Forest Buffer Account; or
  - (c) It has been invalidated.
- (2) An Ecology offset credit may only be used:
  - (a) To meet a compliance obligation under this article, except if used by a covered entity in a program approved for linkage; or
  - (b) By a general market participant for purposes of voluntary retirement.

**WAC 173-446-580. Invalidation of Ecology Offset Credits.**

- (1) An Ecology offset credit issued under this article will remain valid unless invalidated pursuant to this section.
- (2) Timeframe for Invalidation. Ecology may invalidate an Ecology offset credit pursuant to this section within the following timeframe if a determination is made pursuant to this section:
  - (a) Within eight years of issuance of an Ecology offset credit, as that corresponds to the end of the Reporting Period for which the Ecology offset credit is issued, if the Ecology offset credit is issued pursuant to this section, unless one of the following requirements is met:
    - (i) The Offset Project Operator or Authorized Project Designee for an offset project developed under the Compliance Offset Protocol does all of the following:
      - (A) Has a different verification body that has not verified the Offset Project Data Report for the issuance of Ecology offset credits, and meets the requirements for conflict of interest and rotation of verification, conduct a second independent regulatory verification, except for Offset Project Data Report Modifications, for the same Offset Project Data Report. Although the requirements for Offset Project Data Report Modifications do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation. If minor correctable errors that do not result in an offset material misstatement are found during the full offset verification services and the verification body does not identify any other nonconformance that would result in an adverse Offset Verification Statement, the verification body must issue a Qualified Positive Offset Verification Statement and identify the correctable errors on the Offset Verification Statement;



- (B) The second regulatory verification must be completed within three years of the issuance of the Ecology offset credits through the submittal of an Offset Verification Statement and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same Offset Project Data Report.
  - (I) If the offset project is listed with an Offset Project Registry, the verification body must submit the detailed verification report and Offset Verification Statement for the second regulatory verification to the Offset Project Registry and Ecology.
  - (II) The Offset Project Registry must review the offset verification documents and submit a report to Ecology that includes the details and findings of the Offset Project Registry's review. During its review, the Offset Project Registry may request additional information from the verification body and Offset Project Operator or Authorized Project Designee, if applicable, and may request clarifications and revisions to the materials, if necessary.
  - (III) The Offset Project Registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.
  - (IV) The Offset Project Registry has an additional 15 working days to submit its report to Ecology. Ecology will review the Offset Project Registry report and determine based on the report and all the information submitted by the verification body and Offset Project Operator or Authorized Project Designee, if applicable, if the invalidation timeframe will be reduced. During its review, Ecology may request additional information, clarifications, and revisions to the materials, if necessary.
- (C) If the requirements in this section are met, the Ecology offset credits issued under the Offset Project Data Report may only be subject to invalidation according to the following timeframes:
  - (I) Within three years of the date that corresponds to the end of the Reporting Period for which the Ecology offset credits are issued, if the Ecology offset credits are issued pursuant to this section; and
  - (II) Within three years of the date for which Ecology offset credits are issued, if the Ecology offset credits are issued pursuant to the Program for Recognition of Early Action Offset Credits; or
- (ii) The Offset Project Operator or Authorized Project Designee for an offset project does the following:

- (A) Has a subsequent Offset Project Data Report verified by a different verification body than the one which conducted the most recent verification, and that meets the requirements for conflict of interest and rotation of verification bodies; and
- (B) The verification conducted by a different verification body for the subsequent Offset Project Data Report and used to reduce the invalidation timeframe of any Ecology offset credits must be completed through the submittal of an Offset Verification Statement within, at a maximum, three years from the date that Ecology offset credits were issued for the Reporting Period. The verification of the subsequent Offset Project Data Report must result in a Positive or Qualified Positive Offset Verification Statement from the new verification body.
- (C) The Ecology offset credits issued for no more than three Reporting Periods prior to the Reporting Period for which the subsequent Offset Project Data Report was verified by a different verification body may only be subject to invalidation within three years of the date that corresponds to the end of the Reporting Period for which the Ecology offset credits are issued.
- (D) If an offset project developed under one of the Compliance Offset Protocols is in the last Reporting Period of a crediting period, and will not have a renewed crediting period, the invalidation timeframe for up to the last three Reporting Periods may be reduced from eight years to three years if the following requirements are met for the last Offset Project Data Report of the crediting period:
  - (I) The Offset Project Operator or Authorized Project Designee has a different verification body than has verified the Offset Project Data Reports and that meets the requirements for conflict of interest and rotation of verification bodies conduct a second independent regulatory verification, except for Offset Project Data Report Modifications, for the last Offset Project Data Report of the crediting period. Although the requirements for Offset Project Data Report Modifications do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation; and
  - (II) The second regulatory verification must be completed within three years of the issuance of the Ecology offset credits through the submittal of an Offset Verification Statement and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same last Offset Project Data Report.

- (III) If the offset project is listed with an Offset Project Registry, the verification body must submit the detailed verification report and Offset Verification Statement for the second regulatory verification to the Offset Project Registry and Ecology.
  - (IV) The Offset Project Registry must review the offset verification documents and submit a report to Ecology that includes the details and findings of the Offset Project Registry's review. During its review, the Offset Project Registry may request additional information from the verification body and Offset Project Operator or Authorized Project Designee, if applicable, and may request clarifications and revisions to the materials, if necessary.
  - (V) The Offset Project Registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.
  - (VI) The Offset Project Registry has an additional 15 working days to submit its report to Ecology. Ecology will review the Offset Project Registry report and determine based on the report and all the information submitted by the verification body and Offset Project Operator or Authorized Project Designee, if applicable, and may request additional information, clarifications, and revisions to the materials, if necessary.
- (3) Grounds for Initial Determination of Invalidation. Ecology may determine that an Ecology offset credit is invalid for the following reasons:
- (a) The Offset Project Data Report contains errors that overstate the amount of GHG reductions or GHG removal enhancements by more than 5 percent;
    - (i) If Ecology finds that there has been an overstatement by more than 5 percent, Ecology shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period. Within 10 calendar days of this determination, Ecology will notify the verification body that performed the offset verification and the Offset Project Operator or Authorized Project Designee. Within 25 calendar days of receiving the written notification by Ecology, the verification body shall provide any available offset verification services information or correspondence related to the Offset Project Data Report. Within 25 calendar days of receiving the written notification by Ecology, the Offset Project Operator or Authorized Project Designee shall provide data that is required to calculate GHG reductions and GHG removal enhancements for the offset project according to the requirements of this article, the detailed offset verification report prepared by the verification body, and other information requested by Ecology. The Offset Project Operator or Authorized Project Designee shall also make available personnel who can assist Ecology's

determination of how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.

- (A) Ecology will determine the actual GHG reductions and GHG removal enhancements achieved by the offset project for the applicable Reporting Period based on, at a minimum, the following information:
    - (I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period; and
    - (II) Any previous Offset Project Data Reports submitted by the Offset Project Operator or Authorized Project Designee, and the Offset Verification Statements rendered for those reports.
  - (B) In determining how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period, Ecology may use the following methods, as applicable:
    - (I) The applicable Compliance Offset Protocol;
    - (II) In the event of missing data, Ecology will rely on the missing data provisions, and, if applicable, the Compliance Offset Protocol; and
    - (III) Any information reported under this article for this Reporting Period and past Reporting Periods.
  - (C) Ecology shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period using the best information available.
- (ii) If Ecology determines that an overstatement has occurred, Ecology shall determine the amount of Ecology offset credits that correspond to the overstatement using the following equation, rounded to the nearest whole ton:

If:  $IARBOC > OPDR \times 1.05$

Then:  $OR = IARBOC - ROPDR$

Where:

“OR” is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report, rounded to the nearest whole ton;

“IEcologyOC” is the number of Ecology offset credits issued under the applicable Offset Project Data Report;

“ROPDR” is the number of GHG reductions and GHG removal enhancements determined by Ecology for the applicable Offset Project Data Report;

- (b) The offset project activity and implementation of the offset project was not in accordance with all local, regional, state, and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in the applicable Compliance Offset Protocol during the Reporting Period for which the Ecology offset credit was issued.
- (i) For offset projects using a forestry or livestock protocol, other than the urban forestry protocol, then if Ecology finds that the offset project is out of regulatory compliance, then Ecology shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period. Within 10 calendar days of this determination, Ecology will notify the verification body that performed the offset verification and the Offset Project Operator or Authorized Project Designee. Within 25 calendar days of receiving the written notification by Ecology, the verification body shall provide any available offset verification services information or correspondence related to the relevant Offset Project Data Report(s). Within 25 calendar days of receiving the written notification by Ecology, the Offset Project Operator or Authorized Project Designee shall provide data that is required to calculate GHG reductions and GHG removal enhancements for the offset project according to the requirements of this article, the detailed offset verification report prepared by the verification body, and other information requested by Ecology. The Offset Project Operator or Authorized Project Designee shall also make available personnel who can assist Ecology's determination of how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.
- (A) Ecology will determine the actual GHG reductions and GHG removal enhancements achieved by the offset project for the applicable Reporting Period based on, at a minimum, the following information:
- (I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period;
- (II) Any previous Offset Project Data Reports submitted by the Offset Project Operator or Authorized Project Designee, and the Offset Verification Statements rendered for those reports; and
- (III) Any information relating to the regulatory compliance of the offset project provided by the Offset Project Operator, Authorized Project Designee, or regulatory oversight body.
- (B) In determining how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period, Ecology may use the following methods, as applicable:
- (I) The applicable Compliance Offset Protocol;

- (II) In the event of missing data, Ecology will rely on the missing data provisions, and, if applicable, the Compliance Offset Protocol; and
    - (III) Any information reported under this article for this Reporting Period and past Reporting Periods.
  - (C) Ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period using the best information available.
  - (D) If Ecology determines that an offset project is out of regulatory compliance then Ecology shall determine the amount of overstated Ecology offset credits, rounded to the nearest whole number, that correspond to the time period that the offset project is determined to be out of regulatory compliance. All offset credits corresponding to this time period shall be deemed ineligible for crediting, and therefore any offset credits corresponding to this time period are subject to invalidation.
  - (E) For offset projects using an urban forestry protocol if Ecology finds that the offset project is out of regulatory compliance, then Ecology shall determine that all Ecology offset credits issued for the applicable Reporting Period are subject to invalidation; or
- (c) Ecology determines that offset credits have been issued in any other voluntary or mandatory program within the same offset project boundary and for the same Reporting Period in which Ecology offset credits were issued for GHG reductions and GHG removal enhancements.
- (d) The following shall not be grounds for invalidation:
  - (i) An update to a Compliance Offset Protocol will not result in an invalidation of Ecology offset credits issued under a previous version of the Compliance Offset Protocol; or
  - (ii) A reversal that occurs under a forest offset project. If such a reversal occurs the provisions in section [forestry reversals] apply.
- (4) Suspension of Transfers. When Ecology makes an initial determination it will immediately block any transfers of Ecology offset credits for the applicable Offset Project Data Report. Once Ecology makes a final determination the block on transfers for any valid Ecology offset credits will be cancelled.
- (5) Identification of Affected Parties. If Ecology makes an initial determination that one of the invalidation circumstances listed in this section has occurred, Ecology will identify the following parties:
  - (a) The current holders that hold any Ecology offset credits in their Holding and/or Compliance Accounts from the applicable Offset Project Data Report;
  - (b) The parties for which Ecology transferred any Ecology offset credits from the applicable Offset Project Data Report into the Retirement Account; and
  - (c) The current, or most recent (in the case of an offset project after the final crediting period), Offset Project Operator and Authorized Project Designee, and, for forest offset projects the current, or most recent (in the case of an offset project after the final crediting period), Forest Owner(s).

- (6) Final Determination and Process of Invalidation. Ecology will notify the parties identified of its initial determination, and provide each party an opportunity to submit additional information to Ecology prior to making its final determination, as follows:
- (a) Ecology will include the reason for its initial determination in its notification to the parties.
  - (b) After notification the parties identified have 25 calendar days to provide any additional information to Ecology.
  - (c) Ecology may request any information as needed in addition to the information provided under this section.
  - (d) Ecology has 30 calendar days after all information is submitted under this section to make a final determination that one or more conditions listed in this section has occurred and whether to invalidate Ecology offset credits.
    - (i) The parties identified will be notified of Ecology’s final determination of invalidation pursuant to this section.
    - (ii) Any approved program for linkage will be notified of the invalidation at the time of Ecology’s final determination pursuant to this section.
- (7) Removal of Invalidated Ecology Offset Credits from Holding, Compliance, and/or Forest Buffer Accounts. If Ecology makes a final determination that an Ecology offset credit is invalid, then:
- (a) Ecology offset credits will be removed from any Holding, Compliance, or Forest Buffer Account, as follows;
    - (i) If an Ecology offset credit is determined to be invalid due to these circumstance, then:
      - (A) Ecology will determine which Ecology offset credits will be removed from the Compliance and/or Holding Accounts of each identified party according to the following equation, truncated to the nearest whole ton:

$$HARBOC = \left\lfloor \frac{TOTHolding}{IARBOC} \right\rfloor \quad OR$$

Where:

“OR” is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report;

“IEcologyOC” is the number of Ecology offset credits issued under the applicable Offset Project Data Report;

“TOTHolding” is the total number of Ecology offset credits currently being held in a Compliance and/or Holding Account by each party identified for the applicable Offset Project Data Report; and

“HEcologyOC” is the total number of Ecology offset credits, rounded to the nearest whole ton, that will be removed from the Holding and/or Compliance Account of each party identified.

- (B) Ecology will determine the quantity of Ecology offset credits issued under the applicable Offset Project Data Report in the amount calculated and remove a quantity of Ecology offset credits from any Holding and/or Compliance Account of the parties identified.
- (C) Ecology will determine the quantity of Ecology offset credits issued under the applicable Offset Project Data Report, for all projects that contribute to the Forest Buffer Account, in the amount calculated multiplied by the project’s reversal risk rating and remove that quantity of Ecology offset credits from the Forest Buffer Account.
- (ii) If an Ecology offset credit is determined to be invalid, Ecology will remove all Ecology offset credits issued under the applicable Offset Project Data Report from any Holding and/or Compliance Account of the parties identified, and from the Forest Buffer Account.
- (b) The parties identified will be notified of which serial numbers were removed from any Compliance, Holding, and/or Forest Buffer Accounts.
- (c) Any approved program for linkage will be notified of which serial numbers were removed from any Compliance, Holding, and/or Forest Buffer Accounts.
- (8) Requirements for Replacement of Ecology Offset Credits.
  - (a) If an Ecology offset credit that is issued to a non-sequestration offset project or an urban forest offset project, or that is issued to a U.S. forest offset project, and is in the Retirement Account, and it is determined to be invalid for only the circumstances listed in WAC 173-446-580(3)(a) or WAC 173-446-580(3)(b)(i) then:
    - (i) Each party identified must replace Ecology offset credits in the amount calculated for the individual party according to the following equation, truncated to the nearest whole ton:

$$REcologyOC = (TOTRetired/IEcologyOC) * OR$$

Where:

“REcologyOC” is the calculated total number of retired Ecology offset credits for the applicable Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by each individual party identified;

“TOTRetired” is the total number of Ecology offset credits for which Ecology transferred the Ecology offset credits from the applicable Offset Project Data Report into the Retirement Account for the individual party;

“IEcologyOC” is the number of Ecology offset credits issued under the applicable Offset Project Data Report; and



“OR” is the amount of overstated GHG reductions and GHG removal enhancements calculated for the applicable Offset Project Data Report.

- (ii) Each party identified must replace Ecology offset credits in the amount calculated with valid Ecology offset credits or other approved compliance instruments, within six months of notification by Ecology.
- (iii) If each party identified does not replace each invalid Ecology offset credit in the amount calculated within six months of notice of invalidation, each unreplaced invalidated Ecology offset credit will constitute a violation for that party.
  - (A) If the party identified is no longer in business, Ecology will require the Offset Project Operator identified to replace each invalidated Ecology offset credit and will notify the Offset Project Operator that they must replace them.
  - (B) If the Offset Project Operator is required to replace the Ecology offset credits, the Offset Project Operator must replace each Ecology offset credit with a valid Ecology offset credit or another approved compliance instrument, within six months of notification by Ecology.
  - (C) If the Offset Project Operator is required to replace the Ecology offset credits, and the Offset Project Operator does not replace each invalid Ecology offset credit within six months of notification by Ecology, each unreplaced invalidated Ecology offset credit will constitute a violation for that Offset Project Operator.
- (iv) Ecology will determine the quantity of Ecology offset credits issued under the applicable Offset Project Data Report in the amount calculated and invalidate that quantity of Ecology offset credits.
- (v) The parties identified will be notified of the quantity of Ecology offset credits that were invalidated.
- (vi) Any approved program for linkage will be notified of which serial numbers were invalidated.
- (b) If an Ecology offset credit that is issued to a non-sequestration offset project or an urban forest project, or that is issued to a U.S. forest offset project, and is in the Retirement Account, and it is determined to be invalid for any circumstance then:
  - (i) The party identified must replace each Ecology offset credit it requested Ecology to transfer into the Retirement Account for the applicable Offset Project Data Report with a valid Ecology offset credit or another approved compliance instrument within six months of notification by Ecology.
  - (ii) If the party identified does not replace each invalid Ecology offset credit within six months of the notice of invalidation, each unreplaced invalidated Ecology offset credit will constitute a violation for that party.
    - (A) If the party identified is no longer in business Ecology will require the Offset Project Operator to replace each invalidated Ecology offset credit and will notify the Offset Project Operator that they must replace them.

- (B) If the Offset Project Operator is required to replace the Ecology offset credits the Offset Project Operator must replace each Ecology offset credit with a valid Ecology offset credit or another approved compliance instrument, within six months of notification by Ecology.
- (C) If the Offset Project Operator is required to replace the Ecology offset credits and the Offset Project Operator does not replace each invalid Ecology offset credit within six months of notification by Ecology each unreplaced invalidated Ecology offset credit will constitute a violation for that Offset Project Operator.
  - (iii) The parties identified will be notified of which serial numbers were invalidated.
  - (iv) Any approved program for linkage will be notified of which serial numbers were invalidated.
- (c) The Offset Project Operator of an offset project that had Ecology offset credits removed from the Forest Buffer Account must replace a percentage of the Ecology offset credits removed from the Forest Buffer Account equal to the percentage of Ecology offset credits retired from the Forest Buffer Account for unintentional reversals as of the date Ecology makes the final determination of invalidation, rounding up to the next whole number, with a valid Ecology offset credit or another approved compliance instrument, within six months of notification by Ecology. If the Offset Project Operator does not replace the required number of Ecology offset credits within six months of notification by Ecology each unreplaced invalidated Ecology offset credit will constitute a violation for that Offset Project Operator.
- (d) The Offset Project Operator identified of an offset project that had Ecology offset credits removed from the Forest Buffer Account must replace a percentage of the Ecology offset credits removed from the Forest Buffer Account equal to the percentage of Ecology offset credits retired from the Forest Buffer Account for unintentional reversals as of the date Ecology makes the final determination of invalidation, rounding up to the next whole number, with a valid Ecology offset credit or another approved compliance instrument within six months of notification by Ecology. If the Offset Project Operator does not replace the required number of Ecology offset credit within six months of notification by Ecology each unreplaced invalidated Ecology offset credit will constitute a violation for that Offset Project Operator.
- (9) Change of Forest Owner or Offset Project Operator. When a Forest Owner or Offset Project Operator changes, whether by merger, acquisition, or any other means, the successor Forest Owner or Offset Project Operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor Forest Owner or Offset Project Operator to submit compliance instruments. For the avoidance of doubt, this obligation of the successor Forest Owner or Offset Project Operator, as applicable, consists of the difference between the number of metric tons of CO<sub>2</sub>e and the number of valid Ecology offset credits or other approved compliance instruments submitted by the predecessor forest owner.

**WAC 173-446-585. Approval Requirements for Offset Project Registries.**

- (1) The approval requirements specified in this section apply to all Offset Project Registries that will operate to provide registry services under this chapter.
- (2) Ecology may approve Offset Project Registries that meet and maintain the requirements specified in this section.
  - (a) Offset Project Registry Approval Application. To apply for approval as an Offset Project Registry, the applicant shall submit the following information to Ecology, in a manner specified by Ecology:
    - (i) Name of applicant;
    - (ii) Name of president or chief executive officer;
    - (iii) List of all board members, if applicable;
    - (iv) Addresses of offices located in the United States;  
Documentation that the applicant carries at least five million U.S. dollars of professional liability insurance; and,
    - (v) List of any judicial proceedings and administrative actions filed against the applicant within the previous five years, with a detailed explanation as to the nature of the proceedings.
  - (b) The applicant must submit, in writing, the procedures to screen and address internal conflicts of interest. The applicant must provide the following information Ecology:
    - (i) A staff, management, and board member conflict of interest policy where there are clear criteria for what constitutes a conflict of interest. The policy must:
      - (A) Identify specific activities and limits on monetary and non-monetary gifts staff, management, or board members must not conduct or accept to meet the Offset Project Registry's internal policies of conflict of interest policy, or alternatively provide a comprehensive policy on the applicant's requirements for the reporting of any and all conflicts based on internal policies that guard against conflict of interest; and
      - (B) Include a requirement for annual disclosure by each staff, management, or board member of any items or instances that are covered by the applicant's conflict of interest policy on an ongoing basis or for the previous calendar year.
      - (C) The applicant must have appropriate conflict of interest and confidentiality requirements in place for any of its contractors;
    - (ii) List of all service types provided by the applicant;
    - (iii) The industrial sectors the applicant serves;
    - (iv) Locations where services are provided; and
    - (v) A detailed organizational chart that includes the applicant and any parent, subsidiary, and affiliate companies.
    - (vi) If the applicant is going to designate a subdivision of its organization to provide registry services, then the prohibition on serving as an offset project consultant shall apply at the subdivision level and the applicant must provide the following general information for its self:

- (A) General types of services; and
  - (B) General locations where services are provided.
- (c) The applicant has the following capabilities for registration and tracking of registry offset credits issued under this chapter:
  - (i) A comprehensive registration requirement for all registry participants;
  - (ii) Tracking ownership and transactions of all registry offset credits it issues at all times; and
  - (iii) Possesses a permanent repository of ownership information on all transactions involving all registry offset credits it issues under this article from the time they are issued to the time they are retired or cancelled.
- (3) The applicant's primary business must be operating an Offset Project Registry for voluntary or regulatory purposes and meet the following business requirements:
  - (a) The applicant may not act as an Offset Project Operator, Authorized Project Designee, or offset project consultant for offset projects registered or listed on its own Offset Project Registry and developed using a Compliance Offset Protocol once approved as an Offset Project Registry. The applicant must annually disclose to Ecology any non-offset project related consulting services it provides to an Offset Project Operator or Authorized Project Designee who lists a project using a Compliance Offset Project with the applicant as part of the information included in the annual report;
  - (b) The applicant may not act as a verification body or provide offset verification services once approved as an Offset Project Registry;
  - (c) If the applicant designates a subdivision of its organization to provide registry services, the applicant may not be an Offset Project Operator or Authorized Project Designee for offset projects listed at the subdivision's registry, act as a verification body, or be a covered entity or opt-in covered entity;
  - (d) The applicant must demonstrate experience in the continuous operation of a registry serving an Environmentally-focused market that includes the trading of carbon-emissions based commodities for a minimum of two years in a regulatory and/or voluntary market, and
  - (e) The applicant's primary incorporation or other business formation and primary place of business, or the primary place of business of the designated subdivision, if the applicant designates a subdivision to provide registry services pursuant to this section, must be in the United States of America.
- (4) The Offset Project Registry must continue to maintain the professional liability insurance required in this section while it provides registry services to Offset Project Operators or Authorized Project Designees who are implementing offset projects using Compliance Offset Protocols.
- (5) If any information submitted pursuant to this section changes after the approval of an Offset Project Registry, the Offset Project Registry must notify Ecology within 30 calendar days and provide updated information consistent with that required in this subsection.
- (6) The Offset Project Registry must attest, in writing, to Ecology as follows:
  - (a) "As the authorized representative for this Offset Project Registry, I understand that the Offset Project Registry is voluntarily participating in the program under

- this chapter and the Offset Project Registry is now subject to all regulatory requirements and enforcement mechanisms of this program.”;
- (b) “All information generated and submitted to Ecology by the Offset Project Registry related to an offset project that uses a Compliance Offset Protocol will be true, accurate, and complete.”;
  - (c) “All information provided to Ecology as part of an Ecology audit of the Offset Project Registry will be true, accurate, and complete.”;
  - (d) “All registry services provided will be in accordance with the requirements of this section.”;
  - (e) “The Offset Project Registry is committed to participating in all Ecology training related to Ecology’s compliance offset program or Compliance Offset Protocols.”; and
  - (f) The authorized representative of the Offset Project Registry must attest in writing, to Ecology: “I certify under penalty of perjury under the laws of the State of Washington I have authority to represent the Offset Project Registry and all information provided as part of this application is true, accurate, and complete.”
- (7) At least two of the management staff at the Offset Project Registry must take Ecology provided training on Ecology’s compliance offset program and pass an examination upon completion of training.
  - (8) The Offset Project Registry must have staff members who have collectively completed Ecology training and passed an examination upon completion of training in all Compliance Offset Protocols.
  - (9) The Offset Project Registry must have at least two years of demonstrated experience in, and requirements for, direct staff oversight and review of offset projects, project listing, offset verification, and registry offset credit issuance.
  - (10) Ecology Approval.
    - (a) Within 60 calendar days of receiving an application for approval as an Offset Project Registry and completion by all management staff of the training required in this section Ecology will inform the applicant in writing either that the application is complete or that additional specific information is required to make the application complete.
    - (b) The applicant may be allowed to submit additional supporting documentation before a decision is made by Ecology.
    - (c) Within 60 calendar days following completion of the application process, Ecology shall approve an Offset Project Registry if evidence of qualification submitted by the applicant has been found to meet the requirements of this section and issue an [TBD legal document] to that effect.
    - (d) The Executive Officer and the applicant may mutually agree, in writing, to longer time periods than those specified in this section.
    - (e) The Executive Officer approval for an Offset Project Registry is valid for a period of 10 years, whereupon the applicant may re-apply. At the time of reapplication, the Offset Project Registry must:
      - (i) Demonstrate it consistently met all of the requirements in this section;
      - (ii) Pass a performance review, which, at a minimum shows the Offset Project Registry consistently:

- (A) Demonstrates knowledge of the Ecology compliance offset program and Compliance Offset Protocols;
  - (B) Meets all regulatory deadlines; and
  - (C) Provides registry services in accordance with the requirements of this article; and
- (iii) Not have been subject to enforcement action under this chapter.
- (11) Modification, Suspension, and Revocation of an Executive Order Approving an Offset Project Registry. The Executive Officer may review, and, for good cause, modify, suspend, or revoke an Executive Order providing approval to an Offset Project Registry.
  - (a) During revocation proceedings, the Offset Project Registry may not continue to provide registry services for Ecology.
  - (b) Within five working days of suspension or revocation of approval, an Offset Project Registry must notify all Offset Project Operators or Authorized Project Designees for whom it is providing registry services, or has provided registry services within the past 12 months, of its suspension or revocation of approval.
  - (c) An Offset Project Operator or Authorized Project Designee who has been notified by an Offset Project Registry of a suspended or revoked approval must re-submit its offset project information with a new Offset Project Registry or Ecology. An offset project listed at Ecology or a new Offset Project Registry will continue to operate under its originally approved crediting period, provided that Ecology may extend the crediting period or the relevant deadline for one year if Ecology determines that such extension is necessary to provide time for re-submission of information to the new Offset Project Registry or Ecology.
- (12) If the applicant under this section is going to designate a subdivision of its organization to provide registry services, all the requirements of this section may be applied at the designated subdivision level.
- (13) An approved Offset Project Registry must make itself and its personnel available for an Ecology audit.

**WAC 173-446-590. Offset Project Registry Requirements.**

- (1) The Offset Project Registry shall use Compliance Offset Protocols approved pursuant to the requirements of this section to determine whether an offset project may be listed with the Offset Project Registry for issuance of registry offset credits. The Offset Project Registry may list projects under non-Compliance Offset Protocols, but must make it clear any GHG emission reductions and GHG removal enhancements achieved under those protocols are not eligible to be issued registry offset credits or Ecology offset credits.
- (2) The Offset Project Registry must make the following information publicly available for each offset project developed under a Compliance Offset Protocol:
  - (a) Within 10 working days of the offset project listing requirements being deemed complete:
    - (i) Offset project name;
    - (ii) Offset project location;
    - (iii) Offset Project Operator and, if applicable, the Authorized Project Designee;
    - (iv) Type of offset project;

- (v) Name and date of the Compliance Offset Protocol used by the offset project;
  - (vi) Date of offset project listing submittal and Offset Project
  - (vii) Commencement date; and
  - (viii) Identification if the offset project is in an initial or renewed crediting period;
- (b) Within 10 working days of the Offset Project Registry making a determination of registry offset credit issuance:
- (i) Reporting Period verified project baseline emissions;
  - (ii) Reporting Period verified GHG reductions and GHG removal enhancements achieved by the offset project;
  - (iii) The unique serial numbers of registry offset credits issued to the offset project for the applicable Offset Project Data Report;
  - (iv) Total verified GHG reductions and GHG removal enhancements for the offset project by Reporting Period for when an Offset Project Data Report was submitted;
  - (v) The final Offset Project Data Report for each Reporting Period; and
  - (vi) Offset Verification Statement for each year the Offset Project Data Report was verified; and
- (c) Clear identification of which offset projects are listed and submitting Offset Project Data Reports using Compliance Offset Protocols. Once an Offset Project Registry has approved a project listing, the Offset Project Registry must continue to list the project but may update the project listing status to “Inactive” if the project has not been issued any registry offset credits or Ecology offset credits or update the listing status to “Terminated” if the project has been issued any registry offset credits or Ecology offset credits. The Offset Project Registry may update the listing status to “Inactive” or “Terminated” if any of the following circumstances exist:
- (i) The offset project has missed the 28-month reporting deadline;
  - (ii) The offset project has missed the deadline for continuous reporting;
  - (iii) The offset project terminates; or
  - (iv) The Offset Project Operator submits a letter to the Offset Project Registry stating that it no longer intends to pursue registry offset credit issuance for this project. The letter must be signed by the Offset Project Operator’s Primary or Alternate Account Representative and must include the following:
    - (A) Offset Project Operator name and CITSS identification number;
    - (B) Offset project name and both Ecology and Offset Project Registry identification numbers;
    - (C) Name and date of the Compliance Offset Protocol used by the offset project;
    - (D) Date on which the Offset Project Registry approved the listing;
    - (E) Indication that the the Offset Project Operator will no longer pursue any registry offset credits for the project;
    - (F) Request to change the project status to “Inactive” or “Terminated”;
 and

- (G) Signature, printed name, title, and date signed.
- (d) When an Offset Project Registry updates the listing status to “Inactive” or “Terminated,” the Offset Project Registry must make publicly available a copy of the letter or must make publicly available a memo authored by the Offset Project Registry explaining the change of status. The memo must include the following:
- (i) Offset Project Operator name and [offset credit registry] identification number;
  - (ii) Offset project name and both Ecology and Offset Project Registry identification numbers;
  - (iii) Name and date of the Compliance Offset Protocol used by the offset project;
  - (iv) Date on which the Offset Project Registry approved the listing;
  - (v) Indication of the deadline(s) missed; and
  - (vi) Date on which the Offset Project Registry has updated the status to “Inactive” or “Terminated.”
- (e) An Offset Project Registry may update an offset project’s listing status to “Completed” if:
- (i) Ecology offset credits have been issued for the offset project,
  - (ii) No further Ecology offset credits will be issued to the project,
  - (iii) The project may no longer undergo offset verification services that could reduce the invalidation period for any Ecology offset credits from eight years to three years,
  - (iv) The project is no longer required to monitor, report, and verify the permanence of its GHG emission reductions or GHG removal enhancements, and,
  - (v) The end of the project life has been reached as defined in the Compliance Offset Protocols (if applicable).
- (f) An Offset Project Registry may update an offset project’s listing status to “Monitored” if:
- (i) Ecology offset credits have been issued for the offset project,
  - (ii) No further Ecology offset credits will be issued to the project, and,
  - (iii) The project is still required to monitor, report, and verify the permanence of its GHG emission reductions or GHG removal enhancements.
- (3) Conflict of Interest Review by Offset Project Registries. The Offset Project Registry must apply the conflict of interest requirements in this section when making a conflict of interest determination for a verification body proposing to conduct offset verification services. The Offset Project Registry must review and make sure the conflict of interest submittal is complete. When an Offset Project Operator or Authorized Project Designee submits its information to Ecology, the Offset Project Registry must provide Ecology with the information and attestation within 15 calendar days.
- (4) The Offset Project Registry may provide guidance to Offset Project Operators, Authorized Project Designees, or offset verifiers for offset projects using a Compliance Offset Protocol, if there is no clear requirement for the topic in a Compliance Offset Protocol, this chapter, or an Ecology guidance document, after consulting and coordinating with Ecology.



- (a) An Offset Project Registry must maintain all correspondence and records of communication with an Offset Project Operator, Authorized Project Designee, or offset verifier when providing clarifications or guidance for an offset project using a Compliance Offset Protocol.
  - (b) Before providing such guidance, the Offset Project Registry may request Ecology to provide clarification on the topic.
  - (c) Any Offset Project Operator or Authorized Project Designee requests for clarifications or guidance must be documented and the Offset Project Registry response must be submitted on an ongoing monthly basis to Ecology beginning with the date of approval as an Offset Project Registry.
- (5) The Offset Project Registry must audit at least 10 percent of the annual full offset verifications developed for offset projects using a Compliance Offset Protocol.
- (a) The audit must include the following checks:
    - (i) Attendance with the offset verification team on the offset project site visit;
    - (ii) In-person or conference call attendance for the first offset verification team and Offset Project Operator or Authorized Project Designee meeting;
    - (iii) In-person or conference call attendance to the last meeting or discussion between the offset verification team and Offset Project Operator or Authorized Project Designee;
    - (iv) Documentation of any findings during the audit that cause the Offset Project Registry to provide guidance to, or require corrective action with, the offset verification team, including a list of issues noted during the audit and how those were resolved;
    - (v) A review of the detailed verification report and sampling plan to ensure that it meets the minimum requirements and documentation of any discrepancies found during the review; and
    - (vi) An investigative review of the conflict of interest assessment provided by the verification body, which includes the following:
      - (A) Discussions with the lead verifier, the verification body officer or staff person most knowledgeable about the conflict of interest selfevaluation, and the Offset Project Operator or Authorized Project Designee to confirm the information on the conflict of interest assessment form is true, accurate, and complete;
      - (B) An internet-based search to ascertain the existence of any previous relationship between the verification body and the Offset Project Operator or Authorized Project Designee, and if so the nature and extent; and
      - (C) Any other follow up by the Offset Project Registry to have reasonable assurance that the information provided on the conflict of interest assessment form is true, accurate, and complete.
  - (b) All information related to audits of offset projects developed using a Compliance Offset Protocol must be provided to Ecology within 10 calendar days of an Ecology request.
  - (c) The audits must be selected to provide a representative sampling of geographic locations of all offset projects, representative sampling of verification bodies,

representative sampling of lead verifiers, representative sampling of offset project types, and representative sampling of offset projects by size.

- (d) The Offset Project Registry must provide an annual report to Ecology by January 31 for its previous year's audit program of offset projects developed using Compliance Offset Protocols that includes:
  - (i) A list of all offset projects audited;
  - (ii) Locations of all offset projects audited;
  - (iii) Verification bodies associated with each offset project and names of offset verification team members;
  - (iv) Dates of site visits;
  - (v) Offset Project Registry staff that conducted the audit; and
  - (vi) Audit findings as required in this section.
- (6) The Offset Project Registry must review each detailed verification report for completeness and accuracy and to ensure it meets the requirements before accepting the associated Offset Verification Statement for the Offset Project Data Report and issuing registry offset credits. The Offset Project Registry must maintain a log of all issues raised during its review of a detailed verification report and the corresponding Offset Project Data Report and Offset Verification Statement and how the issues are resolved. Within three working days of issuing registry offset credits, the Offset Project Registry must provide the following to Ecology:
  - (a) The attestations required in this section and any in the applicable Compliance Offset Protocol;
  - (b) The final Offset Project Data Reports submitted to an Offset Project Registry;
  - (c) The final Offset Verification Statements, and,
  - (d) The Offset Project Registry's log of all issues raised during its review.
- (7) The Offset Project Registry must provide all information in its possession, custody, or control related to a listed offset project under a Compliance Offset Protocol within 10 calendar days of request by Ecology.
- (8) The Offset Project Registry must make its staff and all information related to listed offset projects under Compliance Offset Protocols by the Offset Project Registry available to Ecology during any audits or oversight activities initiated by Ecology to ensure the requirements are being carried out as required by this chapter.
- (9) The Offset Project Registry must remove or cancel any registry offset credits issued for an offset project using a Compliance Offset Protocol, such that the registry offset credits are no longer available for transaction on the Offset Project Registry system, once notified by Ecology that the offset project is eligible to be issued Ecology offset credits.
- (10) The Offset Project Registry must provide an annual report by January 31 of the previous year's offset projects that are listed using a Compliance Offset Protocol. The report must contain the name of the offset project, type of offset project and applicable Compliance Offset Protocol, name of Offset Project Operator or Authorized Project Designee, location of offset project, status of offset project, associated verification body, crediting period, amount of any registry offset credits issued to date, amount of any registry offset credits retired or cancelled for the offset project by the Offset Project Registry to date.
- (11) The Offset Project Registry may choose to offer insurance or other products to cover the risk of invalidation of Ecology offset credits, but purchase or use of the insurance or other

invalidation risk mechanisms will be optional for all parties involved with registry offset credits and Ecology offset credit transactions.

- (12) Within 10 working days of first receiving an Offset Project Data Report to meet the reporting deadline an Offset Project Registry must provide Ecology a copy of the Offset Project Data Report and confirm the date on which the Offset Project Data Report was submitted to the Offset Project Registry.
- (13) All information submitted, and correspondence related to, listed offset projects under Compliance Offset Protocols by the Offset Project Registry must be maintained by the Offset Project Registry for a minimum of 15 years.

#### **WAC 173-446-595. Direct Environmental Benefits in the State.**

- (1) Offset projects that are located within, or that avoid GHG emissions within the State of Washington are considered to provide direct environmental benefits in the State.
- (2) Any project located outside the State of Washington may submit the following information to Ecology to enable a determination of whether the project provides direct environmental benefits in the State. Such determination must be based on a showing that the offset project or offset project type provides for the reduction or avoidance of emissions of any air pollutant that is not credited pursuant to the applicable Compliance Offset Protocol in the State of Washington or a reduction or avoidance of any pollutant that is not credited pursuant to the applicable Compliance Offset Protocol that could have an adverse impact on waters of the State of Washington.
  - (a) Scientific, peer-reviewed information or reports supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State;
  - (b) Governmental reports from local, state, or national environmental, health, or energy agencies, or multinational bodies (such as the Intergovernmental Panel on Climate Change) supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State; or
  - (c) Monitoring or other analytical data supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State.
- (3) New offset projects. In order to be eligible to demonstrate that an offset project located outside the State of Washington provides direct environmental benefits in the State, the Offset Project Operator or Authorized Project Designee shall submit all relevant materials listed in this section along with the first reporting period Offset Project Data Report

## **COMPLIANCE AND ENFORCEMENT**

#### **WAC 173-446-600 Compliance obligations.**

- (1) All covered entities and opt-in entities must comply with all requirements for monitoring, reporting, participating in auctions, and holding and transferring compliance instruments, as well as all other provisions of this chapter.

- (2) All parties participating in the program must provide to Ecology within 14 days any additional information requested by Ecology concerning their participation in the program.
- (3) By November 1 of each year, each covered entity and opt-in entity must transfer to Ecology sufficient compliance instruments of current or former vintage years to cover at least 30% of its covered emissions for the previous calendar year.
- (4) By November 1 of the year following the final year of each compliance period, each covered entity and each opt-in entity must have transferred to Ecology one compliance instrument for each metric ton of covered emissions of carbon dioxide equivalent emitted by that party during the compliance period.
- (5) Compliance instruments to be transferred to Ecology must be in the complying party's compliance account. Once placed in a compliance account, compliance instruments cannot be removed by anyone except Ecology. Once Ecology has received all compliance instruments from a particular party for a particular compliance period, Ecology will remove and permanently retire all the compliance instruments from that party's compliance account.
- (6) A portion of each covered entity or opt-in entity's compliance obligation may be met by transferring to Ecology offset credits. Each offset credit is worth one metric ton of carbon dioxide equivalent.
  - (a) Unless modified by Ecology by rule as authorized in RCW 70A.65.170(3)(c), for the first compliance period (January 1, 2023 through December 31, 2026), no more than 5 percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by providing Ecology with offset credits.
    - (i) Unless Ecology has linked with an external GHG trading system, all offsets must provide direct environmental benefits to the state.
    - (ii) If Ecology has linked with an external GHG trading system, at least 50 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington State. The other 50 percent must be located in a jurisdiction with which Ecology has linked.
  - (b) Unless modified by Ecology by rule as authorized in RCW 70A.65.170(3)(c), For the second compliance period (January 1, 2027 through December 31, 2030), no more than 4 percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits.
    - (i) Unless Ecology has linked with an external GHG trading system, all offsets must provide direct environmental benefits to the state.
    - (ii) If Ecology has linked to an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or an opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington State, unless Ecology determines

there is not a sufficient supply of offsets in Washington to meet offset demand. The other 25 percent must be located in a jurisdiction with which Ecology has linked.

- (c) Ecology may reduce the limits in (a) and (b) above for a specific covered entity or opt-in entity if Ecology, in consultation with the Environmental Justice Council, determines that the covered or opt-in entity has or is likely to:
  - (i) Contribute substantively to cumulative air pollution burden in an overburdened community as determined by Ecology in consultation with the Environmental Justice Council.
  - (ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in any increase in emissions.
- (d) In addition to the offset credits cited in (a) in this subsection, during the first compliance period, a covered entity or opt-in entity may satisfy up to 3 percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.
- (e) In addition to the offset credits cited in (b) in this subsection, during the second compliance period, a covered entity or opt-in entity may satisfy up to 2 percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

**WAC 173-446-610 Enforcement.**

- (1) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing must be submitted to Ecology within six months after the compliance deadline.
- (2) When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify Ecology. Upon receiving notification, Ecology will issue an order requiring the covered or opt-in entity to submit the penalty allowances.
- (3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (1) of this section, Ecology must issue an order or issue a penalty of up to \$10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (1) of this section. Each metric ton of CO<sub>2</sub>e not covered by a compliance instrument constitutes a separate violation. The order may include a plan and schedule for coming into compliance.
- (4) Ecology may issue a penalty of up to \$50,000 per day per violation if Ecology determines that a registered entity has:

- (a) Provided false or misleading facts;
  - (b) Withheld material information that could influence a decision by Ecology concerning the registered entity's approval to participate in an auction;
  - (c) Violated any part of the auction rules;
  - (d) Violated registration requirements; or
  - (e) Violated any rules regarding the conduct of the auction.
- (5) Except as provided in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to \$10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section and this subsection must be deposited into the climate investment account.
- (6) Violators are also subject to the sanctions authorized in Chapter 19.86 RCW, as appropriate.
- (7) Orders and penalties issued under this chapter are appealable to the Pollution Control Hearings Board under Chapter 43.21B RCW.
- (8) For the first compliance period, Ecology may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances not timely provided.
- (9) An electric utility or natural gas utility must notify its retail customers and the Environmental Justice Council in published form within three months after paying a monetary penalty under this section.