



DEPARTMENT OF  
ECOLOGY  
State of Washington

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

Air Quality Program  
November 8, 2021

# **Welcome to the Stakeholder Meeting for Chapter WAC 173-446 – Climate Commitment Act Program Rulemaking**

## **We will begin at 10 a.m. PT**

We will check sound 10 and 5 minutes before starting.

# Sound Check

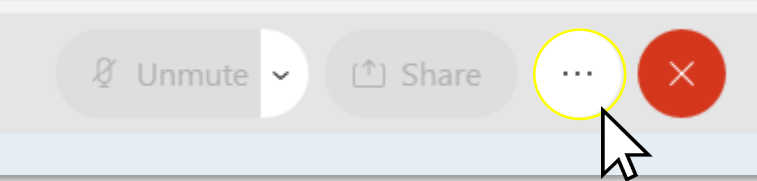
**No sound?** Connect your audio and listen for a sound check before we start.

Please note that all attendees are muted.

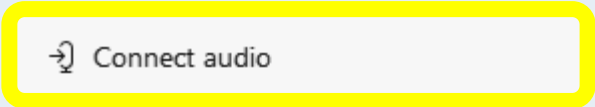
To change your audio connection.



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

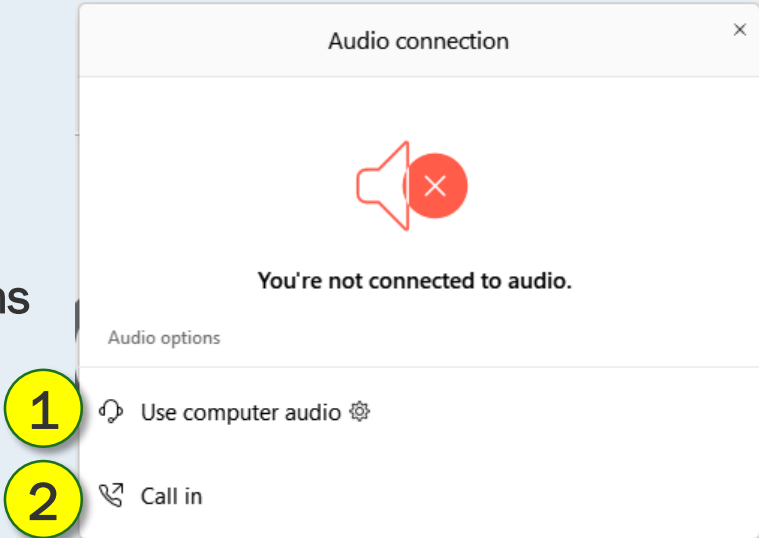


**2** Select "Connect Audio" button.



**3** Select Audio Connection

**2**  
Options

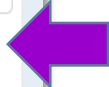
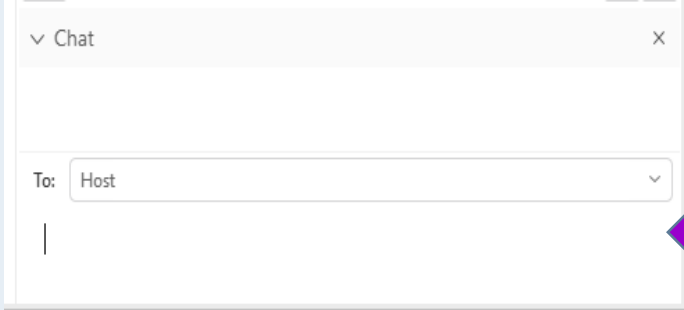
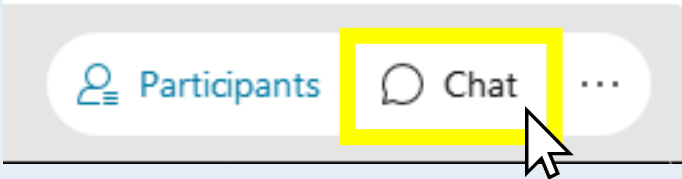


If you select "Call In" the system will provide you with a phone number and entry information.

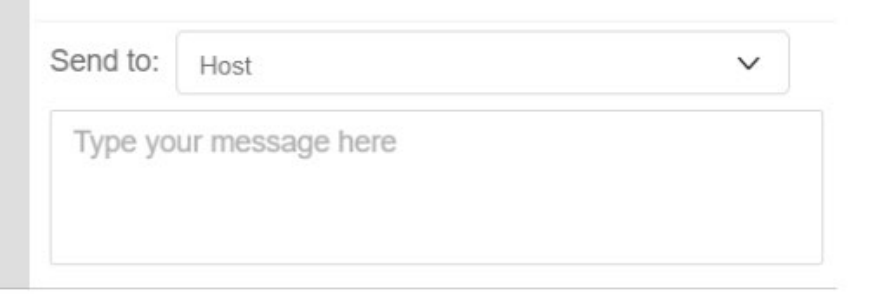
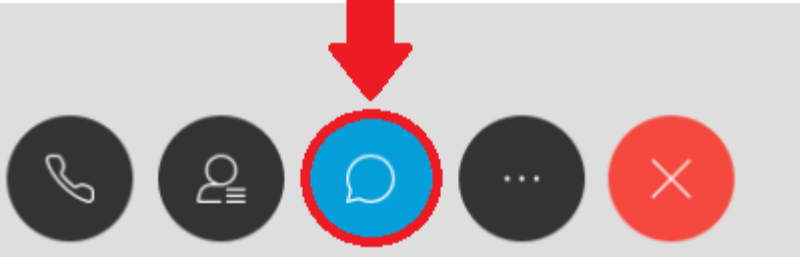
# How To Use the “Chat” Function

Chat with the host for technical problems

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

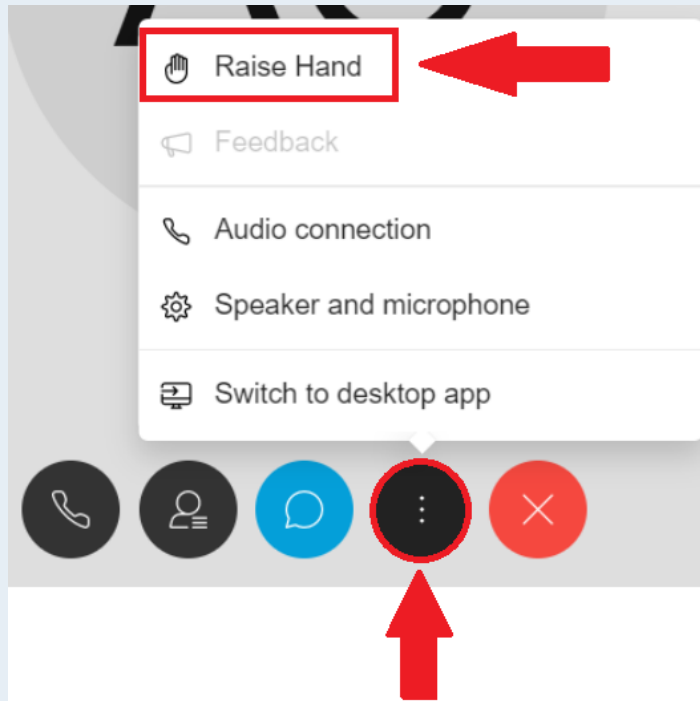


**If you are using the WebEx browser:**

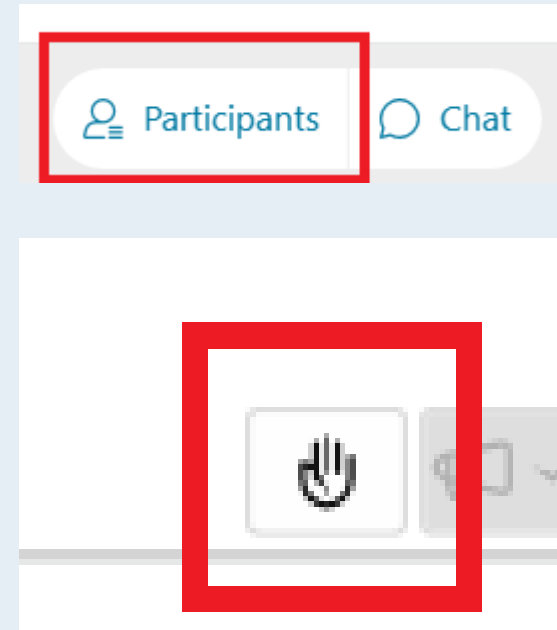


# How To Use the “Raise Hand” Function

## Joined by Browser



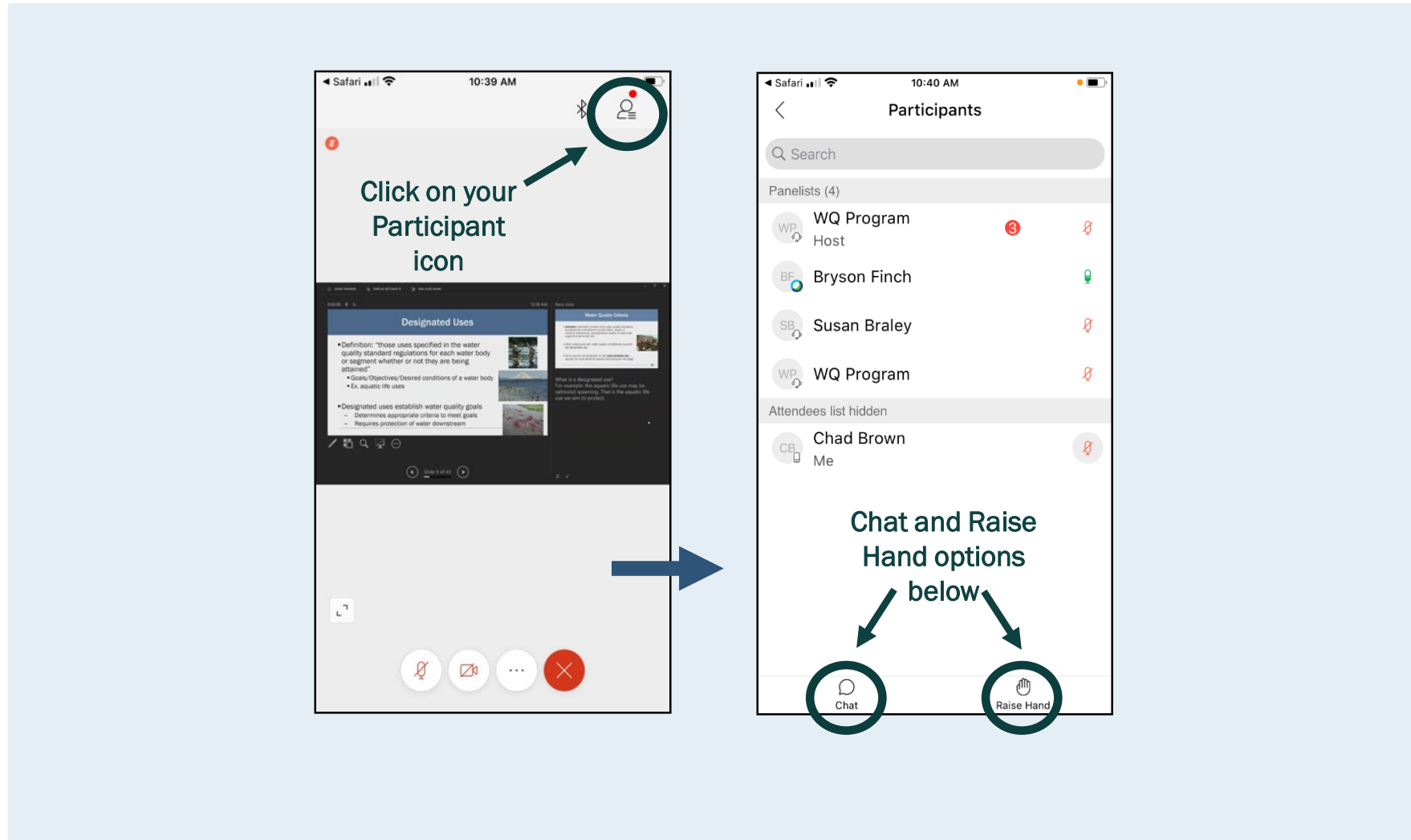
## Joined by Application



## Joined by Phone




# Joined by Phone or Tablet



# How To Participate

## During today's question and answer period:

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

# Start Recording

We will begin recording at this time.





# Ecology Staff

- Laura Westfall – Host
- Tina Maurer – Co-host
- Martha Hankins – Policy and Planning Section Manager
- Luke Martland – Climate Commitment Act Implementation Manager
- Derek Nixon – Auctions Unit Supervisor
- Bill Drumheller – Technical Lead
- Kay Shirey – Rule Development Lead
- Cooper Garbe – Rulemaking Lead

# Agenda

- 1 Climate Commitment Act Program Rule
- 2 Rulemaking timeline
- 3 Program basics
- 4 How it works
- 5 Rule language review
- 6 Wrap up

# Covered Emissions in the Climate Commitment Act

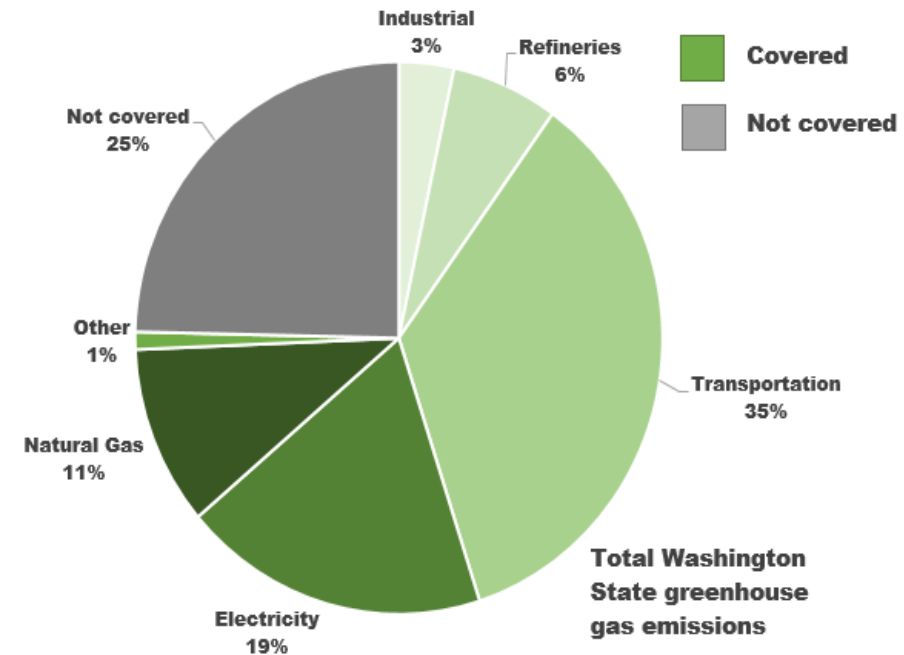
## Covered – 75%

- Gasoline and on-road diesel
- Electricity consumed in Washington
- Facilities generating more than 25,000 metric tons a year or more of greenhouse gas emissions
- Natural gas distributed to homes and commercial businesses
- 2027 – waste to energy facilities
- 2031 – railroads and certain landfills

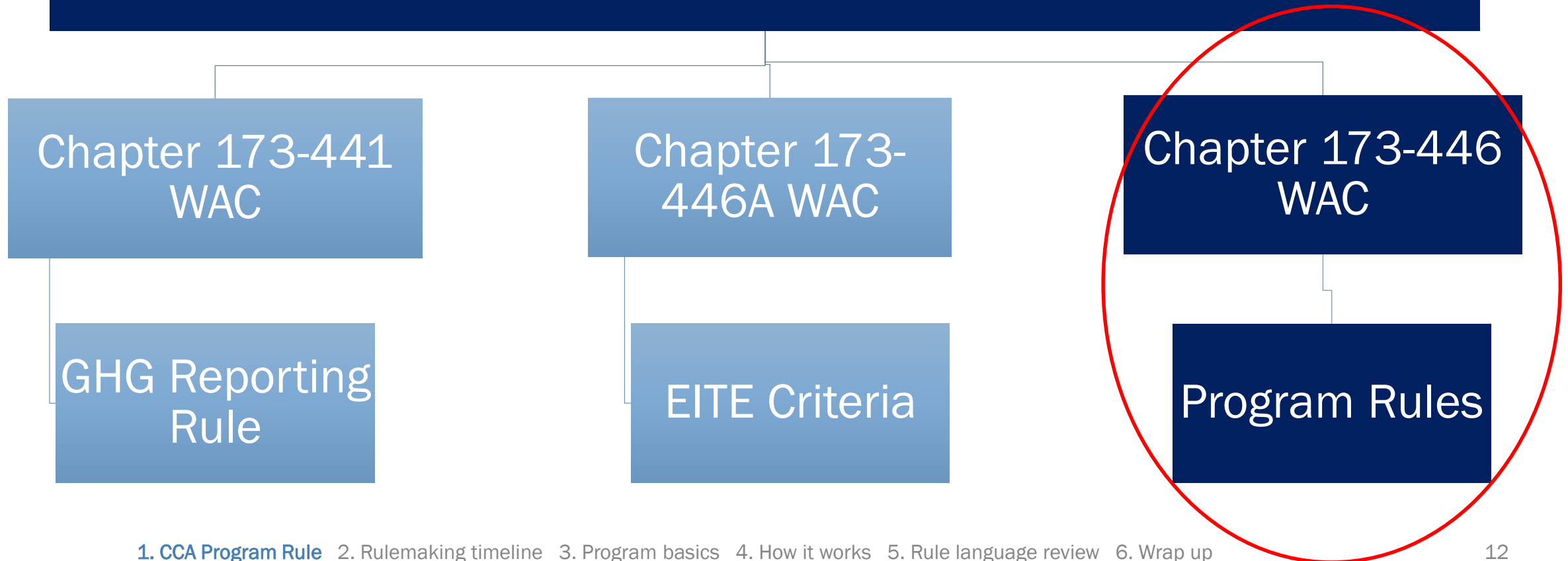
## Not covered – 25%

- Agricultural operations
- Small businesses with under 25,000 metric tons/year of greenhouse gas emissions
- Aviation fuels
- Most marine fuels

**Climate Commitment Act Coverage**



# Climate Commitment Act Rulemakings in Process



# Rulemaking Timeline



# Rule Development Timeline

## Pre-proposal public participation



# Comments and Feedback

- Public participation
  - We are presenting a work-in-progress view of rule language.
  - Input during the development phase is critical to a successful program.
  - Informal comment period November 8, 2021–January 18, 2022.  
Submit comments: <https://aq.ecology.commentinput.com/?id=mgir9>

# Today's Presentation of Rule Language

1. Background
  - The basics of the program
  - How the rule provisions we're looking at today work – in general
2. Section by section review of the rule language
3. Rule language itself

At various points along the way, we'll pause for questions.

This is draft language.

We are asking for your feedback.

Please provide comments online.



# The Portions of the CCA Program We are Dealing With Today

- These provisions lay out the framework for participation in the cap-and-invest program
  - Registration
  - Accounts
  - Account access and management
  - Account transactions (other than auctions)
  - Compliance and enforcement

# The Portions of the CCA Program We are NOT Dealing With Today

- Baseline
- Direct distribution of allowances
- Auctions
- Offsets

# The Basics

The cap-and-invest program is a trading program.

- 3 ways to participate in the trading program
  - Covered entities – GHG reporters that meet the covered emission thresholds
  - Opt-in entities – GHG emitters that don't meet the covered emission thresholds, but choose to participate
  - General market participants – anyone else that wants to hold allowances
- Before participating in the program, everyone must register.
  - The registration process will be covered today.

# The Basics

- The commodities traded in the program are compliance instruments
  - Two types of compliance instruments
    - Emission allowances – each one worth 1 MTCO<sub>2</sub>e
    - Offset credits – each one worth 1 MTCO<sub>2</sub>e (not discussing these today)
- Allowances may be obtained by
  - Direct distribution from Ecology – for some covered entities as specified in Chapter 70A.65 RCW (not covered today)
  - Purchase at allowance auctions (not covered today)
  - Trades with others in the program (trading process will be covered today)

# The Basics

- Why do you need allowances?
  - At the end of each compliance period, covered entities and opt-in entities must provide to Ecology sufficient compliance instruments to cover their covered emissions for the compliance period.
  - Compliance periods last 4 years.  
First is January 1, 2023 – December 31, 2026.
  - Compliance instruments must be transferred to Ecology by November 1 of the year following the end of the compliance period.  
November 1, 2027 is the compliance deadline for the first compliance period.

# The Basics

- Annual compliance obligation WAC 173-446-600(2)
  - 30% of annual covered emissions
  - Compliance deadline is November 1 of the year after the emissions occurred.
  - First compliance deadline will be November 1, 2024 to cover 2023 emissions.

# The Basics

Accounts are required

- In order to get allowances at auctions or by trade, each participant must have the required accounts set up by Ecology. (covered today)
- In order to get an account and gain access to it, participants must take certain actions:
  - Disclose to Ecology certain direct and indirect corporate associations of which they are members (covered today)
  - Designate at least two account representatives to act for them in the market (covered today)

# The Basics

- Once you have an account
  - You are eligible to participate in allowance auctions.
  - You may trade compliance instruments with other registered entities.
- Trading
  - Trading is handled by each registered entity's account representatives.
  - Trades go through Ecology.
  - Once a trade is approved, Ecology transfers compliance instruments to the buyer's account.



# Questions?

- That was a very basic outline of the program and the provisions we are looking at today.
- Questions?
- Next is a more detailed look at how the provisions work.

# Philosophy of the Rulemaking

- As much as possible, one-stop shopping
  - Put all the nuts and bolts of the program in one place
- Lots of language directly from the statute
  - Let us know what you think of this approach

# CCA Requirements for Ecology

- Protect the integrity of auctions, guard against bidder collusion, and minimize the potential for market manipulation.  
RCW 70A.65.100(6), (8)
- Oversee the market RCW 70A.65.060(1), (2), 090(6)
  - Provide monitoring and oversight of the sale and trade of allowances
  - Track ownership of compliance instruments
  - Enable and record compliance instrument transfers
  - Implement a program to track, verify, and enforce compliance

# Where the Rule Language Comes From

- The Climate Commitment Act
- Other jurisdictions with cap-and-trade programs
  - The Climate Commitment Act strongly encourages linking
  - California, Quebec, Ontario, Regional Greenhouse Gas Initiative
- Western Climate Initiative documents
  - Washington was part of the Western Climate Initiative

# How It Works

- Applicability is based on GHG reporting under WAC 173-441.
- If you report sufficient covered GHG emissions, Ecology will send you notice that you are automatically registered into the cap-and-invest program as a covered entity. WAC 173-446-050 (1)
- You may opt into the program if you have GHG emissions, but not enough to be a covered entity. WAC 173-446-050(2), (3)
- Others may register in the program as General Market Participants. WAC 173-446-055

# How It Works

- Once you receive notice of registration, you have 30 days to provide information to Ecology to enable Ecology to set up the required accounts for you and provide you access to those accounts.
  - Disclosures of corporate association WAC 173-446-105 through 120
  - Designation of account representatives WAC 173-446-130
- This information enables Ecology to oversee the market, and minimize market manipulation and bidder collusion.

# How It Works

- Covered entities and opt-in entities receive (WAC 173-446-060)
  - A holding account
  - A compliance account
- General market participants receive only a holding account
- Compliance instruments in a holding account may be traded  
WAC 173-446-150(1)(b)
- Compliance instruments in a compliance account WAC 173-446-150(1)(a)
  - may not be traded
  - may not be transferred back to the holding account
  - may only be used for compliance

# How It Works

- A holding limit applies jointly to the covered entity's or opt-in entity's holding account and compliance account WAC 173-446-150(2)
  - Holding limits limit the number of compliance instruments that can, in total, be in the covered entity's or opt-in entity's accounts at one time WAC 173-446-150(2)
  - BUT compliance instruments in a compliance account needed to comply with the current or past year's compliance obligation are exempt from the holding limit WAC 173-446-150(2)(c)
- One holding limit for current and past-year vintage allowances WAC 173-446-150(2)(a)
- Separate holding limit for each future year vintage of allowances WAC 173-446-150(2)(b)



# How It Works

## Trades

1. The seller's account representative must send a transfer request to Ecology.  
WAC 173-446-410(1)(a)
2. That request must be confirmed by a second account rep from the seller.  
WAC 173-446-410(1)(a)
3. The buyer's account representative must then accept the seller's request.  
WAC 173-446-410(1)(a)
4. If all is clear and above board, and the buyer's holding limits won't be violated, Ecology will transfer the compliance instruments from the seller's account to the buyer's account.  
WAC 173-446-410(2)

# How It Works

## Transfers to Ecology

1. The transferor's account representative must send a transfer request to Ecology. WAC 173-446-420(2)
2. That request must be confirmed by a second account rep from the requester. WAC 173-446-420(2)
3. If all is clear and above board, Ecology will transfer the requester's compliance account or will retire the allowances from the compliance account. WAC 173-446-420(3)

# Questions?

Next, we'll look at each section of the rule language.

# General Requirements

## WAC 173-446-010 Purpose

- From the CCA, Chapter 70A.65 RCW

## WAC 173-446-020 Definitions

- From the CCA, RCW 70A.65.010 + more as needed

## WAC 173-446-030 Applicability

- From RCW 70A.65.080

# General Requirements

## WAC 173-446-040 Covered Emissions

- Developed to be consistent with the GHG reporting rule and to determine who has the compliance obligation when double counting might be a problem.
  - Facilities that are covered entities under the cap-and-invest program must provide compliance instruments to cover the GHG emissions from on-site combustion of natural gas at those facilities WAC 173-446-040(3)(a)(i)
  - Suppliers must provide compliance instruments to cover emissions from on-site combustion of natural gas at facilities that are not covered entities under the cap-and-invest program. WAC 173-446-040(3)(b)(i)

# General Requirements

## WAC 173-446-050 Registration – Covered entities and opt-in entities

- Anyone who reports GHG emissions above the thresholds in RCW 70A.65.030 is automatically registered in the program WAC 173-446-050(1)
- Anyone who reports GHG emissions lower than the thresholds in RCW 70A.65.030 may opt into the program
  - need to report; take on compliance obligations WAC 173-446-050(2)
- Anyone who is responsible for GHG emissions, but emissions are below reporting thresholds may also opt-in to the program
  - need to report; take on compliance obligations WAC 173-446-050(3)

# General Requirements

## WAC 173-446-055 Registration General Market Participants

- Anyone who's not a covered entity or an opt-in entity, but wants to hold compliance instruments WAC 173-446-055(1)
- Includes parties operating offset projects WAC 173-446-055(1)(a)(ii)
- There are some parties that cannot be general market participants.  
WAC 173-446-055(1), (2)

# General Requirements

## WAC 173-446-056 Cap-and-Invest Consultants and Advisors

- A cap-and-invest consultant or advisor is someone who is not an employee of a registered entity, but provides services to the registered entity related to the market or greenhouse gas emissions.

WAC 173-446-056(1)

- If a party registered in the cap-and-invest program uses a cap-and-invest consultant or advisor, it must disclose that to Ecology.

WAC 173-446-056(2)

- Adopted to help provide transparency in the market



# General Requirements

## WAC 173-446-060 New or Modified Covered Entities

- From RCW 70A.65.080
- Have compliance obligation as of November 1 of the first year following the year their covered emissions reach the CCA threshold WAC 173-446-060(1)

## WAC 173-446-070 Curtailment and Closure

- From RCW 70A.65.080
- Curtailed – still have compliance obligation until the end of the current compliance period WAC 173-446-080(1)
- Closed – no compliance obligation as of the beginning of the subsequent compliance period WAC 173-446-080(2)(a)
  - if covered emissions below threshold for entire compliance period; or
  - if ceases all processes requiring reporting

# Program Account Requirements

## WAC 173-446-100 Program Accounts Required

- Within 30 days after receiving a registration notice from Ecology, each registered entity must make corporate association disclosures to Ecology and designate account representatives. WAC 173-446-100(1)
- Within 30 days after receiving the required information, Ecology will set up the required accounts for each registered entity. WAC 173-446-100(1)
- Registered entities that are members of a direct corporate association may register for separate accounts or for a consolidated entity account.  
WAC 173-446-100(2)
  - The holding limit for the direct corporate association applies to all members of the direct corporate association, whether they have separate accounts or a consolidated entity account. WAC 173-446-100(2)

# Program Account Requirements

## WAC 173-466-105 Disclosure of Corporate Association: Indicia of Corporate Association

- Criteria for determining if a direct or indirect corporate association exists – taken from California regulations

## WAC 173-446-110 Disclosure of Corporate Association: Types of Disclosure Required

- All direct and indirect corporate associations with other registered entities in WA's cap-and-invest program. WAC 173-446-110(1)
- All direct corporate associations with parties not registered in WA's cap-and-invest program. WAC 173-446-110(2)
- Additional information as requested by Ecology. WAC 173-446-110(3)
- A party registering as a general market participant solely to hold offsets is not required to disclose any direct or indirect corporate association. WAC 173-446-110(6)(b)

# Program Account Requirements

## Disclosure of Corporate Association

### WAC 173-446-120 Disclosure of Corporate Association: Information to be disclosed

- Includes identifying information about each member of each direct and indirect corporate association. WAC 173-446-120(1)
- Disclose whether the corporate association is direct or indirect. WAC 173-446-120(2)
- Update disclosures within 30 days of the creation of a direct or indirect corporate association, or of a change in the type of corporate association. WAC 173-446-120(4)(b)
- Update information no later than 10 days prior to the auction application deadline if the change relates to another party registered in the cap-and-invest program if the disclosing party intends to participate in the auction. WAC 173-446-120(4)(d)

# Program Account Requirements

## WAC 173-446-130 Designation of Account Representatives

- Each registered entity must have a separate account representative.
- Each registered entity must have at least one primary account representative and one secondary account representative. WAC 173-446-130(1)
- Account representatives act for registered parties in auctions and other transactions concerning a registered entity's compliance instruments. WAC 173-446-130(1)
- All representations, actions, errors, or omissions made by account representatives in the performance of their duties are deemed to be made by the registered entity. WAC 173-446-130(3)

# Program Account Requirements

## WAC 173-446-140 Designation of Account Viewing Agents

- Each registered entity can have up to 5.  
WAC 173-446-140(1)
- Account viewing agents can't act on the account, but they can see it.  
WAC 173-446-140(1)
- Account viewing agents are designated by account representatives.  
WAC 173-446-140(1)(a) and (b)

# Program Account Requirements

## WAC 173-446-150 Accounts for Registered Entities

- Covered entities and opt-in entities receive (WAC 173-446-060)
  - A holding account
  - A compliance account
- General market participants receive only a holding account.
- Compliance instruments in a holding account may be traded.  
WAC 173-446-150(1)(b)
- Compliance instruments in a compliance account WAC 173-446-150(1)(a)
  - may not be traded
  - may not be transferred back to the holding account
  - may only be used for compliance

# Program Account Requirements

## WAC 173-446-150 (continued)

- A holding limit applies jointly to the covered entity's or opt-in entity's holding account and compliance account. WAC 173-446-150(2)
  - Holding limits limit the number of compliance instruments that can, in total, be in the covered entity's or opt-in entity's accounts at one time. WAC 173-446-150(2)
  - BUT compliance instruments in a compliance account needed to comply with the current or past year's compliance obligation are exempt from the holding limit. WAC 173-446-150(2)(c)
- One holding limit for current and past-year vintage allowances  
WAC 173-446-150(2)(a)
- Separate holding limit for each future year vintage of allowances  
WAC 173-446-150(2)(b)



# Compliance Instrument Transactions

## WAC 173-446-400 Transactions – General Requirements

- Compliance instruments do not expire, and may be held or banked. WAC 173-446-400(1)
- Once used for compliance, a compliance instrument is retired and cannot be used again. WAC 173-446-400(1)
- Compliance instruments in a compliance account cannot be traded. They can only be transferred to Ecology to satisfy compliance obligations. WAC 173-446-400(1)
- The provisions on compliance transactions ensure that Ecology can effectively monitor and oversee the market.

# Compliance Instrument Transactions

## WAC 173-446-410 Transactions Among Registered Entities – Process

1. The seller's account representative must send a transfer request to Ecology. WAC 173-446-410(1)(a)
2. That request must be confirmed by a second account rep from the seller. WAC 173-446-410(1)(a)
3. The buyer's account representative must then accept the seller's request. WAC 173-446-410(1)(a)
4. If all is clear and above board, and the buyer's holding limits won't be violated, Ecology will transfer the compliance instruments from the seller's account to the buyer's account. WAC 173-446-410(2)

## WAC 173-446-420 Transactions To Ecology – Process

1. The transferor's account representative must send a transfer request to Ecology. WAC 173-446-420(2)
2. That request must be confirmed by a second account rep from the requester. WAC 173-446-420(2)
3. If all is clear and above board, Ecology will transfer the compliance instruments from the requester's holding account to its compliance account or retire them. WAC 173-446-420(3)

# Compliance Account Transactions

## WAC 173-446-430 Transaction Requests – Information Required

- Includes
  - Holding account numbers of the parties transferring compliance instruments  
WAC 173-446-430(1)(a), (b)
  - Quantity, type, vintage, and settlement price for the compliance instruments  
WAC 173-446-430(1)(c), (d)

## WAC 173-446-440 Transaction Requests – Prohibited Actions

- No insider trading. That is, no profiting from inside knowledge when making trades. WAC 173-446-440(1), (2), (3)
- No false or misleading information to Ecology. WAC 173-446-440(4)

# Compliance and Enforcement

## WAC 173-446-600 Compliance Obligations

- Annual compliance obligation = 30% of that year's emissions; compliance date is November 1 of the year following the year of the emissions WAC 173-446-600(2)
- Date for compliance at the end of a four-year compliance period is November 1 of the year following the end of the compliance period WAC 173-446-600(3)

# Compliance and Enforcement

WAC 173-446-610 Enforcement – from RCW 70A.65.200

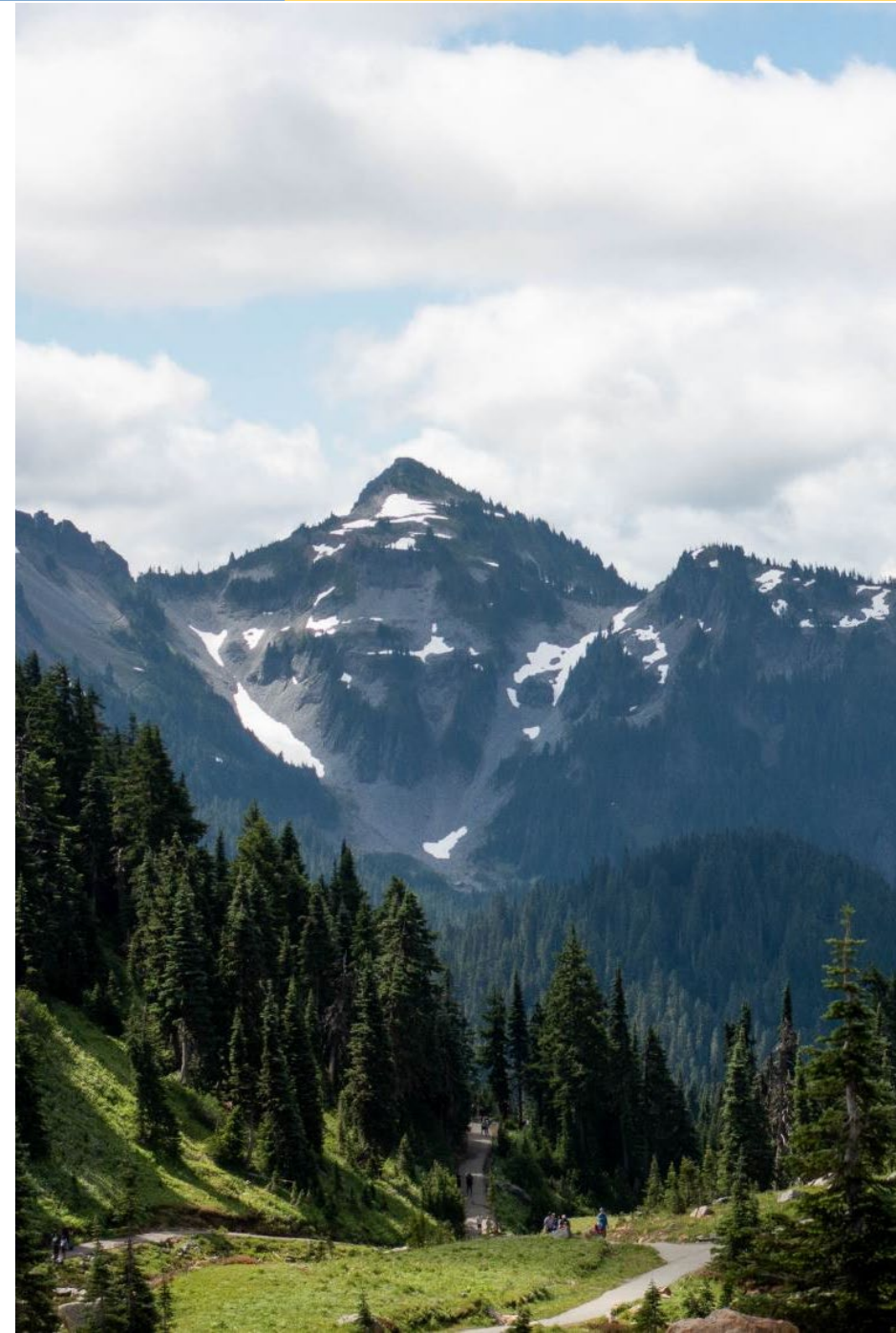
- If a covered entity or opt-in entity fails to provide sufficient compliance instruments to cover its covered emissions by November 1 of the year after the end of a compliance period, the covered entity or opt-in entity must, within 6 months, provide 4 compliance instruments for each one not provided. WAC 173-446-610(1)
- If that obligation is not met, Ecology may issue penalties and compliance orders. WAC 173-446-610(3)
- Each day of non-compliance and each metric ton of covered emissions that is not covered by compliance instruments constitutes a separate violation. WAC 173-446-610(3)
- Ecology may also issue penalties for violating auction rules, providing false or misleading information, or failing to provide information. WAC 173-446-610(4)

# Questions?

- Are there any questions about what we've just gone over?
- Next, I will share the rule language we provided. We'll open it up for any questions about that rule language.

# Preliminary Draft Rule Text

- [https://ecology.wa.gov/Asset-Collections/Doc-Assets/Rulemaking/AQ/WAC173-446\\_-21-06/Draft-rule-language-WAC-173-446-11-08-21](https://ecology.wa.gov/Asset-Collections/Doc-Assets/Rulemaking/AQ/WAC173-446_-21-06/Draft-rule-language-WAC-173-446-11-08-21)



# Wrap Up

- Climate Commitment Act: Chapter 70A.65 RCW  
Establishes a Cap-and-Invest Program
- Chapter 173-446 WAC, Climate Commitment Act Program  
Establishes requirements for the Cap-and-Invest Program
- Informal comment period November 8, 2021 – January 18, 2022 may be submitted here:  
<https://aq.ecology.commentinput.com/?id=mgir9>



# More Information

- Chapter 173-441 WAC, Greenhouse Gas Reporting Rule Updates
  - Proposed on October 6, 2021
  - Comments due by November 16, 2021
- Chapter 173-446A WAC, Criteria for Emissions-Intensive Trade-Exposed Industries (EITE)
  - Proposal Winter 2021

For general information about greenhouse gases and climate change, please check out the upcoming webinar: [Understanding Washington's Climate Policies](#)

# Questions?

Kay Shirey  
kay.shirey@ecy.wa.gov  
564-200-2372

Cooper Garbe  
cooper.garbe@ecy.wa.gov  
360-485-7216