



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)  
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

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DATE: August 04, 2021

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WSR 21-16-110

**Agency:** Department of Ecology AO #21-05

**Subject of possible rule making:** Ecology is beginning rulemaking to adopt a new rule – Chapter 173-446A WAC, Criteria for Emissions-Intensive, Trade-Exposed Industries – to implement portions of the Washington Climate Commitment Act (Engrossed Second Substitute Senate Bill 5126).

In 2021, the legislature passed the Climate Commitment Act (CCA), which establishes a cap and invest program to achieve Washington's goal of greenhouse gas limits by 2050. Ecology will undertake three separate rulemakings to address the requirements in the law.

This rulemaking may:

- Establish criteria to identify emissions-intensive, trade-exposed (EITE) industries that will be eligible for no-cost allowances.
- Consider the locations of potential emissions-intensive, trade-exposed industries in relation to overburdened communities while developing the criteria.
- Include requirements necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the CCA.

**Statutes authorizing the agency to adopt rules on this subject:** Washington Climate Commitment Act (Engrossed Second Substitute Senate Bill 5126), Chapter 316, Laws of 2021

**Reasons why rules on this subject may be needed and what they might accomplish:**

This rulemaking implements Section 13 of the CCA, which specifies industries that are classified as EITE and allows additional businesses that can demonstrate that they meet the criteria to be established in this rule to be eligible for EITE classification. The CCA also directs Ecology to consider the locations of potential EITE facilities in relation to overburdened communities while developing the objective criteria. Ecology must adopt the rule by July 1, 2022.

EITE industries emit a significant amount of greenhouse gases and operate in competitive markets.

The CCA identifies thirteen specific industries as emissions-intensive, trade-exposed:

- Metals manufacturing;
- Paper manufacturing;
- Aerospace product and parts manufacturing;
- Wood products manufacturing;
- Nonmetallic minerals manufacturing;
- Chemical manufacturing;
- Computer and electronic product manufacturing;
- Food manufacturing;
- Cement manufacturing;
- Petroleum refining;
- Asphalt paving mixtures and block manufacturing from refined petroleum;
- Asphalt shingle and coating manufacturing from refined petroleum; and
- All other petroleum and coal products manufacturing from refined petroleum.

Facilities owned or operated by a business that meets the criteria as EITE may be eligible to receive an allocation of allowances for the covered emissions at those facilities at no cost. Ecology is responsible for providing criteria that accurately identifies and classifies new EITE businesses.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (Chapter 34.05 RCW).

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

(If necessary)

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Email:

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

Web site:

Other: Sign up to receive email notices on this rulemaking:

Other:

[http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=CLIMATE-COMMITMENT-ACT-BULLETIN &A=1](http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=CLIMATE-COMMITMENT-ACT-BULLETIN&A=1)

Additional comments: Interested parties can stay informed about the rulemaking and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

<b>Date:</b> August 4, 2021
<b>Name:</b> Kathy Taylor
<b>Title:</b> Air Quality Program Manager

**Signature:**

