



PREPROPOSAL STATEMENT OF INQUIRY

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

Do **NOT** use for expedited rule making

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WSR 21-16-111

Agency: Department of Ecology AO #21-06

Subject of possible rule making: Ecology is beginning rulemaking to add a new rule – Chapter 173-446 WAC, Climate Commitment Act Program – to implement parts of the Climate Commitment Act (Engrossed Second Substitute Senate Bill 5126), Chapter 316, Laws of 2021.

In 2021, the legislature passed the Climate Commitment Act, which establishes a cap and invest program to help achieve Washington's greenhouse gas limits by 2050. Ecology will undertake three separate rulemakings to address the requirements of the law. In addition to this rulemaking, separate rulemakings will amend Chapter 173-441 WAC (Reporting of Greenhouse Gas Reporting) and a second will create a new chapter, Chapter 173-446A (Emission-Intensive, Trade-Exposed).

This rulemaking will establish components of the cap and invest program that may include, but are not limited to:

- Program registration requirements
- Methods and procedures for allocating allowances
- Allowance budgets for the first compliance period (2023 – 2026)
- Auction registration requirements
- Auction floor price
- Emissions containment reserve
- Procedures and protocols for offset projects
- Enforcement provisions
- Transfer and sale of allowances and recognition of compliance instruments
- Other elements to support the operation and functioning of the cap and invest program

Statutes authorizing the agency to adopt rules on this subject: Climate Commitment Act (Engrossed Second Substitute Senate Bill 5126), Chapter 316, Laws of 2021; Chapter 70A.15 RCW, Washington Clean Air Act and Chapter 70A.45 RCW, Limiting Greenhouse Gas Emissions

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

In 2020, the legislature updated the state's greenhouse gas emissions limits that Washington must achieve by 2030, 2040, and 2050, based on current science and emissions trends, to support local and global efforts to avoid the most significant impacts from climate change. Meeting these limits will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws such as this one, as other enacted policies are insufficient to meet the limits.

The Climate Commitment Act establishes a new cap and invest program to help Washington achieve these limits. Ecology is responsible for implementing this program through rulemaking. The legislation directs Ecology to start the program by January 1, 2023, and adopt annual allowance budgets for the first compliance period of the program by October 1, 2022.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The Climate Commitment Act directs Ecology to adopt certain components of these rules in consultation with the Utilities and Transportation Commission and the Department of Commerce, and broadly affects key sectors those agencies focus on. There is also overlap with the Department of Health in several areas. Ecology will consult with these agencies throughout the rule development process.

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:

Name: Jason Alberich	(If necessary) Name:
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TTY: For Washington Relay Service or TTY call 711 or 877-833-6341.	TTY:
Email: jason.alberich@ecy.wa.gov	Email:
Web site: https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446	Web site:
Other: Sign up to receive email notices on this rulemaking: http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=CLIMATE-COMMITMENT-ACT-BULLETIN &A=1	Other:

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.

Date: August 4, 2021

Name: Kathy Taylor

Title: Air Quality Program Manager

Signature:

