



Chapter 173-446 WAC – Climate Commitment Act Program Rulemaking

Air Quality Program
June 21, 22, 27, 28, 2022

Welcome

- Eman Jabali – Host
- Joanna Ekrem – Co-Host
- Nikki Harris – Spanish interpreter point of contact
- Melanie Forster – Public Hearing Officer
- Joshua Grice – Rulemaking Lead
- Cooper Garbe – Rulemaking Lead
- Kay Shirey – Rule Development Lead
- Bill Drumheller – Technical Lead

Agenda

- 1 Presentation about the proposed rule (30 minutes)
- 2 Questions (30 minutes) – **no formal public comments**
- Break (5 minutes)
- 3 Public hearing – formal public comments

Ground Rules for Q&A and Oral Testimony

- Use the “raise hand” feature when you have a question or want to provide testimony.
- Lower your hand after you have spoken.
- If you are participating by phone, press *9 when you have a question, want to provide testimony, or need technical assistance.
- Limit your testimony to 3 minutes.

Ecology Staff

- Eman Jabali– Host
- Joanna Ekrem– Co-Host
- Melanie Forster – Public Hearing Officer
- Luke Martland – Climate Commitment Act Implementation Manager
- Martha Hankins – Policy and Planning Section Manager
- Josh Grice – Rulemaking Lead
- Cooper Garbe – Rulemaking Lead
- Kay Shirey – Rule Development Lead
- Bill Drumheller – Technical Lead
- Emily Bruns – Technical Team
- Neil Caudill – Technical Team
- Jordan Wildish – Technical Team
- Derek Nixon – Auctions Unit Supervisor

Public Meeting Agenda

- 1 Rulemaking process
- 2 Basics of cap and invest
- 3 Structure of the proposed rule
- 4 Basis for the proposed rule
- 5 Differences between the January draft and the May 16, 2022 proposed rule
- 6 Questions

Rulemaking Process

*Rule
development*

- Stakeholder meetings
- Informal public comment period
 - November 8, 2021 – January 26, 2022

*Proposal
Phase*

- Draft rule proposal: May 16, 2022
- Formal public comment period:
June 3, 2022 – July 15, 2022
- Public hearings: June 21, 22, 27, 28, 2022

Adoption
Phase

- Fall 2022

Rulemaking Process

- Informal public comment period:
November 8, 2021 – January 26, 2022
- We heard from about 80 of you.
- Your input was crucial to this rulemaking.
- Thank you for your comments.
- We made a number of changes based on your comments.

The Basics – Baseline and Cap Decline

- The statute requires Ecology to set a baseline for the GHG emissions covered by the Cap and Invest Program (**WAC 173-446-200's**).
 - Generally based on 2015-2019 emissions
- Ecology must also set annual allowance budgets for GHG emissions from covered entities (**WAC 173-446-200's**).
 - Annual allowance budgets must decline annually to ensure emissions covered by the program reach the % reductions required for 2030, 2040, and 2050 in RCW 70A.45.020 (1 allowance for each 1 MTCO₂e).
- Ecology creates a sufficient number of allowances each year to cover the annual allowance budget for that year.

The Basics – Baseline and Cap Decline

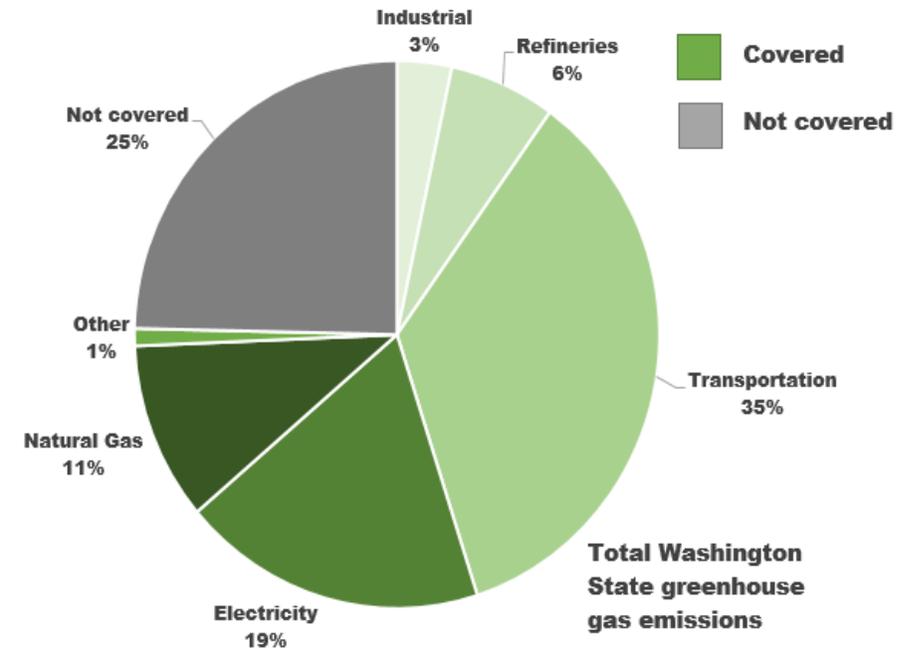
Covered – 75%

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

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



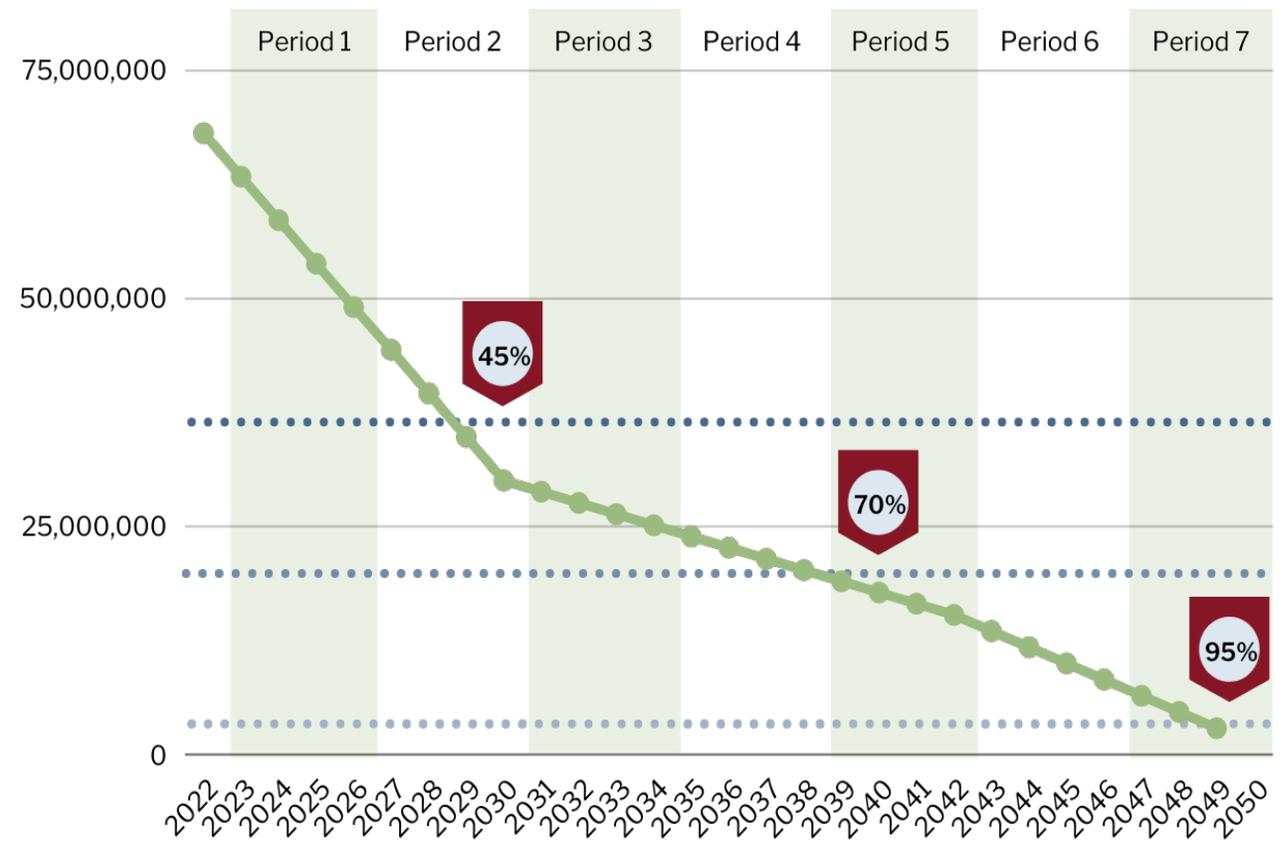
The Basics – Baseline and Cap Decline

To keep Washington on track to meet its emissions reduction targets, the Allowance Budget decreases each year.

This graph shows the predicted Allowance Budgets through 2049, based on the proportionate reduction in covered emissions required for Washington to meet its statutory obligation of reducing emissions by 95% by 2050.

Projected Allowance Budgets Over Time

Based on the proportionate reduction in CCA-covered emissions required for Washington to meet its statutory obligation of reducing emissions by 95% by 2050.



The Basics – Trading

- The cap and invest program is a trading program.
- The commodities traded in the program are compliance instruments.
 - Two types of compliance instruments:
 - Emission allowances – each one worth 1 MTCO₂e
 - Offset credits – each one worth 1 MTCO₂e
- **Allowances may be obtained by:**
 - Direct distribution from Ecology – for some covered entities as specified in Chapter 70A.65 RCW (**WAC 173-446-200's**)
 - Purchase at allowance auctions (**WAC 173-446-300's**) and
 - Trades with others in the program (**WAC 173-446-400's**)

The Basics – Trading

- **3 ways to participate in the trading program (WAC 173-446-000's)**
 - 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 who wants to hold allowances
- **Before participating in the program, everyone must register (WAC 173-446-000's).**

The Basics – Trading

Accounts are required.

- In order to obtain allowances at auctions or by trade, each participant must have the required accounts set up by Ecology (**WAC 173-446-100's**).
- 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.
 - Designate at least two account representatives to act for them in the market.

The Basics – Trading

- **Once you have an account:**
 - You may trade compliance instruments with other registered entities.
 - You are eligible to participate in allowance auctions.
- **Trading (WAC 173-446-400's)**
 - 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.

The Basics – Auctions

WAC 173-446-300s

Types of auctions

- Current and prior vintage allowances
- Future vintage allowances
- Emissions Containment Reserve auctions
- Allowance Price Containment Reserve auctions

When they happen

- 4 per year
- 2 per year
- When new covered and opt-in entities
- When auction price reaches Tier 1 APCR price
- When new covered and opt-in entities and no allowances in ECR
- Once per year between final auction and compliance deadline

The Basics – Auctions

- Single round, single price auctions
- To be viable and to be accepted
 - Bids must not violate bidder's holding limits.
 - Bids must not violate bidder's purchase limits.
 - Total cost of accepted bids must be covered by a bid guarantee.
- **Settlement price is the price of the lowest viable bid that is at or above the floor price.**
- All bidders pay the settlement price.
- All viable bids are accepted that are above the settlement price
 - Until allowances run out

The Basics – Price Containment

- To minimize allowance price volatility
 - To keep auction prices from remaining too low:
 - Price floor – can't sell allowances at auction for less than the floor price
 - Emissions Containment Reserve trigger price – Ecology withholds allowances from auction to raise the settlement price. We propose to suspend this for now.
 - To keep auction prices from going too high:
 - Allowance Price Containment Reserve (APCR) – Ecology holds APCR auctions when the settlement price in the previous auction reaches the Tier 1 APCR price and once a year before the compliance deadline.
 - Price ceiling – Ecology to sell price ceiling units at the ceiling price as necessary.

The Basics – Offsets

WAC 173-446-500s

There are two types of compliance instruments:



Emissions Allowances

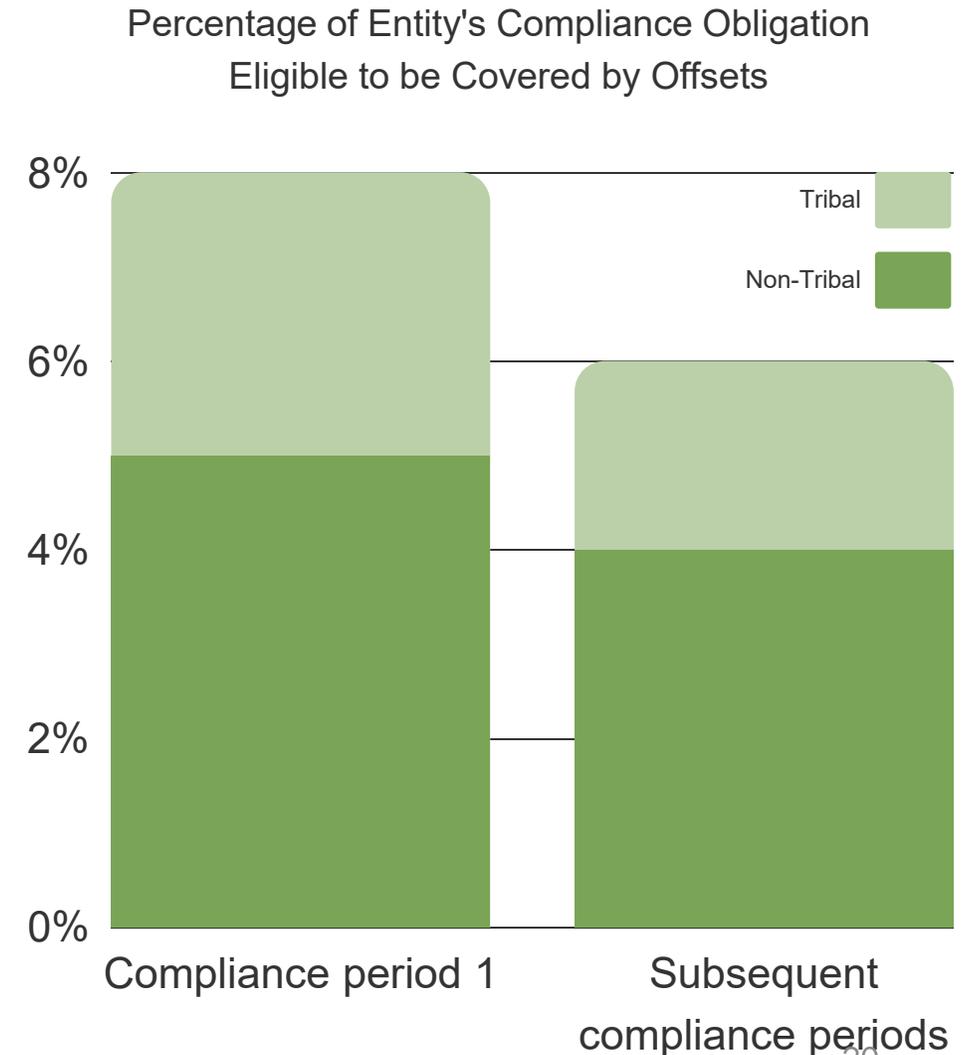


Offset Credits

The Basics – Offsets

For an offset project to qualify under the Climate Commitment Act, it must meet the following requirements:

- Result in greenhouse gas reductions or removals that are **real, permanent, quantifiable, verifiable, and enforceable**.
- Reduce, remove, or avoid emissions that are **not** covered emissions in the cap-and-invest program to avoid double counting of emissions reductions.
- Result in emissions reductions or removals **in addition** to those which would occur without the financial incentive provided by the program or through other law or regulation.
- Provide direct environmental benefits to the state or be located in a jurisdiction with which Washington has entered into a linkage agreement.



The Basics – Offsets

Ecology is proposing to adopt four offset protocols:



U.S.
Forest
Protocol



Urban
Forest
Protocol



Livestock
Protocol



Ozone
Depleting
Substances
Protocol

These protocols were developed by California's Air Resources Board (CARB) and are in use in California's Cap-and-Trade System.

The Basics – Compliance and Enforcement

- By the end of each compliance period, covered entities and opt-in entities must have provided to Ecology one compliance instrument for each ton of covered emissions for the compliance period. (**WAC 173-446-600's**)
- Compliance periods last 4 years. The first is Jan. 1, 2023 – Dec 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 – Compliance and Enforcement

- **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 – Compliance and Enforcement

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

- If a covered entity or opt-in entity does not provide sufficient compliance instruments in a timely manner, 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))

Structure of the Proposed Rule

WAC 173-446-000s General Requirements

- Definitions
- Applicability
- Registration

WAC 173-446-100s Program Account Requirements

- Disclosure of corporate associations
- Designation of account representatives and account viewing agents

Structure of the Proposed Rule

WAC 173-446-200s Allowance Budgets and Distribution of Allowances

- Baseline
- Annual allowance budgets
- Distribution of no cost allowances

WAC 173-446-300s Allowance Auctions

- Registration for auction
- Auction processes
- Price containment measures

Structure of the Proposed Rule

WAC 173-446-400s Compliance Instrument Transactions

- Transfers among registered entities
- Transfers to Ecology
- Prohibited actions

WAC 173-446-500s Offsets

- Ecology offset credits and registry offset credits
- Offset protocols
- Verification
- Invalidation

Structure of the Proposed Rule

WAC 173-446-600s Compliance and Enforcement

- Compliance Obligations
- Enforcement

Basis for the Proposed Rule

Many elements of the program are directly mandated by statute, such as:

- Sectors covered by the cap and invest program
- Sectors receiving no cost allowances
- Length of compliance periods
- Purchase limits at auctions
- Program to be designed to ensure covered entities meet their proportional share of the 2030, 2040, and 2050 GHG limits in RCW 70A.45.020.

Basis for the Proposed Rule

Some elements in the program are subject to the statutory requirement that Ecology develop a program as ready as possible to link with other GHG trading programs, such as:

- Structure and procedure of auctions
- Holding limits on holding accounts and compliance accounts
- Corporate association disclosure requirements
- Offset program procedural requirements
- Compliance instrument trading process

Basis for the Proposed Rule

Some elements in the program are up to Ecology's discretion, such as:

- Dates for distributing no cost allowances
- Number of allowances > 2% in the APCR and the ECR
- Auction price floor, price ceiling, APCR Tier 1, and Tier 2 prices
- Decision to suspend the ECR trigger price
- Percent annual compliance obligation

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Baseline and Annual Allowance Budgets

- More accurate numbers for the baseline and the annual allowance budgets for the first compliance period
- These are not the final numbers. The final numbers should not be very different and will be in the final rule.

Timeline

- Distribute no cost allowances by October 24 of each year for the following year.
 except
- Distribute 2023 no cost allowances by September 1, 2023.

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Consent to Jurisdiction

- All opt-in entities and general market participants must consent to the jurisdiction of Washington courts and administrative tribunals.

Auctions

- Adopt the California auction price floor, auction price ceiling, and APCR Tier 1 and Tier 2 prices.
- Suspend the ECR trigger price, as authorized by E2SSB 5842.
- Make unsold allowances available for auction for 2 years before putting them into the ECR. This makes more allowances available for auction and should help keep allowance prices from getting too high.

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Auctions

- Front-load the APCR
 - Take 5% of the allowances from each annual allowance budget from 2023 through 2030.
 - Put the allowances in the APCR now, so they will be available for APCR auctions starting in 2023.
- Benefits
 - Washington has a small GHG market with a steep cap decline rate for the first two compliance periods.
 - Front loading the APCR makes more allowances available sooner, and should help keep allowance prices from getting too high as the program gets up and running.

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Auctions

Slight changes to make auction provisions consistent with the WCI, Inc. process.

- For example, we first proposed that auction participants provide separate bid guarantees for auctions of current/past vintage allowances and parallel auctions of future vintage allowances.
- We changed that to one bid guarantee to cover both auctions because that's how WCI, Inc.'s system is set up and how the CA/QUE system does it.

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Trading

Allow electric utilities to provide no cost allowances at no cost to the FJDs from whom they purchase power. This includes giving no cost allowances to the Bonneville Power Administration (BPA).

Offsets

One additional offset protocol - the protocol for the destruction of ozone depleting substances.

Differences Between the January Draft and the May 16, 2022 Proposed Rule

Alignment with E2SSB 5842 and E2SHB 1663

- Took out provisions related to landfills.
- Tweaked the cap decline rates to account for landfills not being part of the program.
- Made the trigger for APCR auctions the Tier 1 APCR price.
- Ensured the rule authorizes Ecology to sell price ceiling units to all covered entities and opt-in entities.
- Added a definition for Market Sensitive Information to address confidentiality provisions in E2SSB 5842.

Questions

- If you have more questions, email them to ecyreclimaterules@ecy.wa.gov
- Do not email formal comments to this email address.

5-Minute Break

Raise your hand if you want to testify.

Public Hearing

3 minutes per person for testimony

Start Recording

We will begin recording at this time.



Public Hearings for Chapter 173-446 WAC

- June 21, 2022 10 a.m.
- June 22, 2022 6 p.m.
- June 27, 2022 1 p.m.
- June 28, 2022 10 a.m.

Send comments

Online: aq.ecology.commentinput.com/?id=6Nx2J

Mail: Department of Ecology
Air Quality Program
Attn: Joshua Grice
P.O. Box 47600
Olympia, WA 98504-7600

Due by: July 15, 2022