

WAC 173-446-400 Compliance instruments transactions—General information.

(1) A compliance instrument can satisfy a covered or opt-in entity's compliance obligation arising from the emission of one metric ton of carbon dioxide equivalent in one calendar year. A compliance instrument does not expire, and may be held or banked. Once surrendered, a compliance instrument must be retired and never used, traded, or transferred again.

(2) By 5:00 p.m. Pacific Time November 1st of 2024 and each year thereafter, each covered entity and opt-in entity must have in its compliance account sufficient compliance instruments of former vintage years to cover at least 30 percent of its covered emissions for the previous calendar year. Except as provided in subsections (4) and (5) of this section, allowances used for this annual compliance requirement must be of the vintage of the year the emissions occurred or any year prior to that year.

(3) By 5:00 p.m. Pacific Time November 1st of the year following the final year of each compliance period, each covered entity and each opt-in entity must have transferred to its compliance account at least one compliance instrument for each metric ton of covered emissions of carbon dioxide equivalent emitted by that party during the compliance period. Except as provided in subsections (4) and (5) of this section, allowances used for compliance under this provision must be of the vintage of any year of the compliance period or of any prior year.

(4) When using allowances for compliance, EITE facilities may provide future vintage allowances obtained as described in WAC 173-446-260 in the process of reconciling their compliance obligation for a given year with their actual production data for that year.

(5) Allowances obtained from the allowance price containment reserve may be used for compliance at any time.

(6) 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.

(7) 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.

(8) A registered 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.

(9) 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 removed by ecology.

(10) Qualifying transfers of no cost allowances from an electric utility to an electrical generating facility may follow the process in WAC 173-446-425.

(11) Deferred compliance requirement for electricity exported to an external GHG emissions trading program for first compliance period. For any portion of covered emissions from a first jurisdictional deliverer in Washington state exported from Washington and imported into an external GHG emissions trading program, as demonstrated to ecology's satisfaction through means established under chapter 173-441 WAC, the requirements of subsection (2) of this section do not apply. Only the requirements of subsection (3) of this section apply to that portion of covered emissions. This deferral is only in effect for the

first compliance period, and for subsequent compliance periods subsections (2) and (3) both apply.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-400, filed 9/29/22, effective 10/30/22.]