

WSR 21-16-111
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 21-06—Filed August 4, 2021, 9:59 a.m.]

Subject of Possible Rule Making: Ecology is beginning rule making to add a new rule, chapter 173-446 WAC, Climate Commitment Act program, to implement parts of the Climate Commitment Act (CCA) (E2SSB 5126), chapter 316, Laws of 2021.

In 2021, the legislature passed CCA, which establishes a cap and invest program to help achieve Washington's greenhouse gas limits by 2050. Ecology will undertake three separate rule makings to address the requirements of the law. In addition to this rule making, separate rule makings will amend chapter 173-441 WAC, Reporting of greenhouse gas, and a second will create new chapter 173-446A WAC, Emission-intensive, trade-exposed.

This rule making 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: CCA (E2SSB 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.

CCA establishes a new cap and invest program to help Washington achieve these limits. Ecology is responsible for implementing this program through rule making. 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.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: CCA 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: 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 Jason Alberich, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-764-6663, for Washington relay service or TTY call 711 or 877-833-6341, email jason.alberich@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446>. Sign up to receive email notices on this rule making <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 rule making 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.

August 4, 2021
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