

WSR 23-19-027

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 23-04—Filed September 12, 2023, 8:06 p.m.]

Subject of Possible Rule Making: The department of ecology (ecology) is considering amendments to chapter 173-446 WAC to address new and revised cap and invest offset protocols. Offsets are projects or programs designed to reduce the amount of greenhouse gases (GHGs) in the atmosphere. In Washington's cap-and-invest program, offset projects must also provide direct environmental benefits to our state. Offsets allow businesses to balance out the negative impacts of their emissions by funding a project that benefits the environment such as capturing methane on dairy farms or planting trees in urban areas.

The scope of this rule making will include consideration of protocol updates or addition of new protocols to increase the potential variety of offset projects that can be developed within the cap-and-invest program, as directed by RCW 70A.65.170 (4) (b). This statute directs ecology to conduct rule making that ensures that any updates or additions to the offset program are both based in the best available science, and support the needs of landowners and communities in Washington state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap and invest program.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Climate Commitment Act states that ecology shall consider adopting offset protocols that make use of aggregation (the grouping of small projects into a single offset project) and cost-effective provisions for monitoring, reporting, and verification (RCW 70A.65.170). During the public comment period on our initial adoption of chapter 173-446 WAC, ecology received 28 comments from organizations, tribal governments, and individuals recommending offset protocol revisions and additions. Ecology's response to those comments stated the agency's intent to consider new and revised offset protocols in a subsequent rule making. The purpose of this rule making is to broaden the scope of offset protocols available in the cap-and-invest program. This rule making will increase the diversity of offset projects available to cap-and-invest market participants, broadening the scope of potential greenhouse gas reductions in our state.

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 Nikki Harris, Department of Ecology, Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-764-6018, Washington relay service or TTY call 711 or 877-833-6341, email nikki.harris@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446-offsets>.

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. Ecology will complete an environmental justice assessment in compliance with RCW 70A.02.060 as a part of this rule making.

September 12, 2023
Joel Creswell, Manager
Climate Pollution Reduction Program