

WSR 25-05-041

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 23-04—Filed February 12, 2025, 7:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-19-027.

Title of Rule and Other Identifying Information: Chapter 173-446 WAC, Climate Commitment Act program rule. Offsets rule making.

For more information on this rule making visit <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-446-offsets>.

Hearing Location(s): On March 25, 2025, at 1:00 p.m. Hearing via webinar. Join and see instructions at https://waecy-wa-gov.zoom.us/meeting/register/tZIsd-yorTorE9BuetAq9Ex9bWwO-Ff6dN_T. Presentation and question and answer session, followed by the hearing. This is an online meeting that you can attend from any computer with internet access; and

On March 27, 2025, at 9:00 a.m. Hearing via webinar. Join and see instructions at <https://waecy-wa-gov.zoom.us/meeting/register/tZIScu2vrT4iGNzTVjZXSrFb-EzqKvYaZdCM>. Presentation and question and answer session, followed by the hearing. This is an online meeting that you can attend from any computer with internet access.

Date of Intended Adoption: July 9, 2025.

Submit Written Comments to: Kayla Stevenson, Department of Ecology (Ecology), Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-760[0], email kayla.stevenson@ecy.wa.gov, <https://ecology.commentinput.com?id=Aj7DMGYHa>, beginning February 12, 2025, at 12:00 a.m., by April 4, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kayla Stevenson, phone 360-972-0313, TTY 711 or 877-833-6341, email ecyadacoordinator@ecy.wa.gov, by March 21, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule amendments is to update the offset protocol for ozone depleting substances (ODS) and add new ODS protocols. These will 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. The proposed rule-making amendments restrict project invalidation liability for ODS projects (in reference to WAC 173-446-580), adopt a new ODS protocol, and require all ODS offset projects commenced after the effective date of the rule to use the new protocol. The proposed new protocol is based on a protocol that the California air resources board (CARB) previously adopted (Compliance Offset Protocol Ozone Depleting Substances), and incorporates the following changes:

- (1) Update global warming potential (GWP) values from AR4 to AR5.
- (2) Allow ODS sourced from the federal government.
- (3) Allow credit generation from hydrochlorofluorocarbon-22 (HCFC-22).
- (4) Allow credit generation from medical aerosols and unused solvents.
- (5) Revise to increase clarity of application in Washington's cap-and-invest program.

Anticipated effects include increased technical standards and decreased obstacles to project development, and will reflect policy advances. These rule changes work in tandem with additional rules under the Climate Commitment Act to achieve the state's mandate of net-zero greenhouse gas emissions by 2050.

Reasons Supporting Proposal: The Climate Commitment Act states that ecology shall consider adopting offset protocols that make use of aggregation (the grouping of multiple small projects into a single, larger 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 program participants, broadening the scope of potential greenhouse gas reductions in our state.

Statutory Authority for Adoption: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap-and-invest program.

Statute Being Implemented: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap-and-invest program.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jordan Wildish, Ecology Headquarters, 360-280-6488.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kayla Stevenson, Department of Ecology (Ecology), Climate Pollution Reduction Program, P.O. Box 47600, Olympia, WA 98504-760[0], phone 360-972-0313, people with speech disability may call TTY at 877-833-6341, people with impaired hearing may call Washington relay service at 711, email kayla.stevenson@ecy.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of how the above exemption(s) applies to the proposed rule: Ecology baselines are typically complex, consisting of multiple requirements fully or partially specified by existing rules, statutes, or federal laws. Where the proposed rule differs from this baseline of existing requirements, it is typically subject to (i.e., not exempt from) analysis required under the Regulatory Fairness Act (RFA), chapter 19.85 RCW, based on meeting criteria referenced in RCW 19.85.025(3) as defined by the Administrative Procedure Act in RCW 34.05.310. The rule may also be fully exempt from the RFA if it does not affect small businesses (i.e., it does not impose compliance costs on small businesses, or on any businesses).

Baseline for this rule making: The baseline for our analyses generally consists of existing laws and rules. This is what allows us to

make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this rule making, the baseline includes: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap-and-invest program; chapter 173-446 WAC, Climate Commitment Act program rule; CARB, Compliance Offset Protocol Ozone Depleting Substances Projects, October 20, 2011; and CARB, Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014.

The proposed rule amendments would: Amend WAC 173-446-505 to adopt by reference: Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0. All new ODS offset projects with a commencement date after the rule adoption date will be required to use this protocol.

Baseline: Chapter 173-446 WAC currently adopts CARB protocol for the destruction of ODS: "Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014."

Proposed: Ecology proposes to adopt a new protocol, named "Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0," which is based on the California protocol with modifications (as discussed below in sections 2.3.3 through 2.3.6). All new ODS offset projects with a commencement date after the rule adoption date will be required to use Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0.

Expected impact: Ecology's four proposed substantive changes will be considered as separate amendments below. The actual act of adoption of the new protocol will not have significant costs or benefits compared to the baseline aside from the proposed changes within the protocol.

Relevant exemptions: RCW 19.85.025(4) (does not affect small businesses).

Restrict reasons for offset credit invalidation to events that directly impact ODS handling, destruction, and emissions (WAC 173-446-580(3)).

Baseline: WAC 173-446-580 (3)(b) lists potential reasons for invalidating an issued offset credit. It reads:

(b) The offset project activity(ies) or implementation of the offset project was not in accordance with all local, regional, state, and national environmental and health and safety laws and regulations that apply in the jurisdiction in which the offset project is located and that directly apply to the offset project, including as specified in the applicable compliance offset protocol during the reporting period for which the ecology offset credit was issued.¹

To date, ecology has issued ODS offset credits for three projects and has thus far initiated no actions pertaining to their validity.²

Proposed: The amendment restricts reasons for offset credit invalidation to events that directly impact ODS handling, destruction, and emissions. It adds the following qualifying restriction to WAC 173-446-580 (3)(b).

(i) For offset projects using the ozone depleting substances (ODS) protocol non-compliance events that do not directly impact ODS handling, destruction, and emissions from ODS processing will not be considered grounds for an initial determination of invalidation.

Expected impact: The amendment clarifies and restricts the reason an ODS offset credit might be invalidated, which would make it of no value. By restricting potential invalidation reasons to those directly impacting the gases involved, project developers would face a more

certain regulatory environment. This should make them more willing to engage in developing offset projects for ODS.

The restriction of the ability to invalidate offset credits to reasons directly pertaining to ODS handling weakens ecology's regulatory authority to some degree. The proposed reduction in authority still maintains ecology's ability to invalidate credits for reasons affecting their legitimacy, however.

Relevant Exemptions: RCW 19.85.025(4) (does not affect small businesses).

The new protocol (Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0) adopted by reference would: Add destruction of refrigerant HCFC-22 as a potential source of offset credits.

Baseline: The currently adopted protocol is titled "California Air Resource's Board Ozone Depleting Substances Projects Protocol, November 14, 2014." The protocol contains six refrigerants, the recovery and destruction of which can generate offset credits. They are all "CFCs" and are as follows: CFC-11, CFC-12, CFC-13, CFC-113, CFC-114, and CFC-115. The 100-year GWP relative to CO₂ of these gases range from 4,750 to 14,400 in the currently adopted California protocol.

Proposed: The proposed amendment would add destruction of the refrigerant hydrochlorofluorocarbon-22 (HCFC-22), also known as R-22, or by the brand name Freon, as a potential source of offset credits. Within the proposed protocol, the GWP assigned to it is 1,789, its cumulative 10-year emission factor is 72 percent, and its substitute emissions factor is 389. The substitute emissions factor is the expected GWP of the refrigerant that would replace HCFC-22. The 10-year emissions factor is the expected percentage of the material to leak from equipment into the atmosphere over the next 10 years.

Expected impact: Of the 6.6 million pounds of ODS refrigerants reclaimed in 2022, 5.7 million (86 percent) were HCFC-22. The relatively large amount of HCFC-22 as a fraction of total ODS refrigerants reclaimed suggests considerable opportunity for the generation of offset credits. However, this is complicated by the relatively strong market for its reuse. At current prices for carbon allowances and offset credits, it is unclear how much if any HCFC-22 will be diverted for destruction versus reuse. If higher prices for compliance instruments (carbon allowances and offsets) materialize, HCFC-22 could become a significant source of ODS offset credits.

Relevant Exemptions: RCW 19.85.025(4) (does not affect small businesses).

The new protocol (Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0) adopted by reference would: Add medical aerosols and solvents as a potential source of offset credits.

Baseline: CARB's protocol, Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014, allows ODS to be sourced from only the following:

- (1) Refrigerants from industrial, commercial, or residential equipment, systems, and appliances or stockpiles;
- (2) ODS blowing agents extracted and concentrated from appliance foams; and
- (3) Intact foam sourced from building insulation.

Ecology understands some medical aerosols and solvents contain ODS but are currently unsellable. This material, though not large in amount, resides in stockpiles and warehouses. Over time, the ODS in this material will leak out into the atmosphere.

Proposed: In the proposed protocol, ODS that were marketed as medical aerosols and solvents can be used as a potential source of offset credits. They must be in unused condition.

Expected impact: Combined with sourcing from federal facilities, we expect this amendment to generate additional offset credits. We currently lack information as to the amount of material in this specific category, but when combined with material from federal facilities and agencies, one offset program developer reported an anticipated 50,000 to 70,000 additional credits per year might be generated. In addition to expanding the availability of offset credits, the destruction of these gases will prevent damage to the ozone layer, which is showing signs of repair following the coordinated international efforts embodied in the Montreal Protocol.

Relevant Exemptions: RCW 19.85.025(4) (does not affect small businesses).

The new protocol (Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0) adopted by reference would: Add material sourced from the federal government or agencies as a potential source of offset credits.

Baseline: CARB's protocol, Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014, allows ODS to be sourced from only the following:

- (1) Refrigerants from industrial, commercial, or residential equipment, systems, and appliances or stockpiles;
- (2) ODS blowing agents extracted and concentrated from appliance foams; and
- (3) Intact foam sourced from building insulation.

Ecology understands ODS material currently recovered from federal facilities is currently being sold into the reuse market. There had been an expectation that the federal government would facilitate destruction of this material, but this has not happened.

Proposed: The proposed rule would allow material sourced from the federal government or agencies as a potential source of offset credits.

Expected impact: Adding this source of ODS gases to the proposed protocol should expand the number of offset credit projects developed and ODS destroyed.

Combined with sourcing from unused medical aerosols and solvents, we expect this to generate additional offset credits. There is currently little information about the amount of material in this specific category, but when combined with material from aerosols and solvents, one offset program developer reported an anticipated 50,000 to 70,000 additional credits per year might be generated. In addition to expanding the availability of offset credits, the destruction of these gases will prevent marginal damage to the ozone layer, which is showing signs of repair following the coordinated international efforts embodied in the Montreal Protocol.

Informed by input provided by the ODS working group, ecology determined that:

"Federal facilities and auctions represent a potentially significant supply of ODS which, unless destroyed, will eventually leak out into the atmosphere. Sourcing ODS from federal sources, as opposed to sourcing from private businesses or state or local government does not impact the integrity of the offset credits generated."

Relevant Exemptions: RCW 19.85.025(4) (does not affect small businesses).

The new protocol (Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0) adopted by reference would: Update the assigned GWP values for eligible gases.

Baseline: CARB's protocol, Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014, assigns GWP values to the gases eligible for offset credits. Those values come from the Intergovernmental Panel on Climate Change's assessment report 4 (AR-4), published in 2007. The assigned 100-year GWP for the CFCs in the currently adopted protocol are:

Table 1: Current GWP Values

ODS Gas	100-year GWP
CFC-11	4,750
CFC-12	10,900
CFC-13	14,400
CFC-113	6,130
CFC-114	10,000
CFC-115	7,370

Proposed: The proposed rule would update the assigned GWP values for previously eligible gases.

Whereas the current values are from the Intergovernmental Panel on Climate Change's 2011 AR4, the proposed values are from AR5, published in 2014.

The AR4 values would still be applied to offset projects that commenced before the adoption of the proposed rule. The new values and the relative change are indicated in the table below.

Table 2: Proposed Changes in GWP Values

ODS	Change	Proposed Value (AR5)	Current Value (AR4)
CFC-11	-90	4,660	4,750
CFC-12	-700	10,200	10,900
CFC-13	-500	13,900	14,400
CFC-113	-310	5,820	6,130
CFC-114	-1,410	8,590	10,000
CFC-115	300	7,670	7,370

Expected impact: The average result is the reduction of GWP values by around five percent. For this set of gases, the same amount of work collecting, transporting, and destroying the gases will yield slightly fewer offset credits. The annual variation in the value of those credits, however, is likely to be greater. The price change in California's offset credits from early November 2025 until early January 2026 for example was more than 10 percent.

The ODS protocol technical working group, formed by ecology to inform this rule making, states the following impacts:

"Switching to AR5 makes the protocol more up-to-date, more conservative, and also aligns with Ecology's adopted [hydrofluorocarbon (HFC)] rule (WAC 173-443-030) which uses AR5 values except where substances are otherwise covered by WAC 173-441. . . AR5 values have now been adopted by all voluntary offset registries with relevant comparable protocols: [American Carbon Registry (ACR)], the Climate Action Reserve, and Verra."

By using the more widely adopted values, ecology and offset developers would join a broader consensus as to the value of ODS destruction. This may impart greater confidence in the value of the issued credits.

Relevant Exemptions: RCW 19.85.025(4) (does not affect small businesses).

¹ WAC 173-446-580, <https://app.leg.wa.gov/WAC/default.aspx?cite+173-446-580>.

² Communications with ecology's climate pollution reduction program, January 2025.

Scope of exemption for rule proposal:
Is fully exempt.

February 12, 2025
Heather R. Bartlett
Deputy Director

RDS-6153.1

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

WAC 173-446-505 Requirements for compliance offset protocols.

(1) In order for ecology to adopt an offset protocol as a compliance offset protocol the offset protocol must:

(a) Accurately determine the extent to which GHG emission reductions and GHG removal enhancements are achieved by the offset project type;

(b) Establish data collection and monitoring procedures relevant to the type of GHG emissions sources, GHG sinks, and GHG reservoirs for that offset project type;

(c) Establish a project baseline that reflects an estimate of business-as-usual performance or practices for comparison against the GHG emission reductions and/or GHG removal enhancements to be achieved by the offset project type;

(d) Account for activity-shifting leakage and market-shifting leakage for the offset project type, unless the offset protocol stipulates eligibility conditions limiting the use of the offset protocol that eliminate the risk of activity-shifting and/or market-shifting leakage;

(e) Account for any uncertainty in quantification factors for the offset project type;

(f) Ensure GHG emission reductions and GHG removal enhancements are permanent;

(g) Include a mechanism to ensure permanence of GHG removal enhancements for sequestration offset project types;

(h) Establish the length of the crediting period for the offset project type;

(i) Establish the eligibility and additionality of the offset project type and quantify GHG emission reductions and GHG removal enhancements using standardized baseline assumptions, emission factors, and monitoring methods; and

(j) Specify the geographic area(s) where the protocol is applicable.

(2) Crediting period. The crediting period for an offset project that does not involve sequestration must be no less than seven years and no greater than 10 years, unless specified otherwise in a compliance offset protocol that has been adopted by ecology under subsection (3) of this section. The crediting period for an offset project that involves sequestration must be no less than 10 years and no greater than 30 years.

(3) An ecology offset credit must result from the use of one of the following compliance offset protocols:

(a) The California Air Resources Board, Compliance Offset Protocol Livestock Projects, October 20, 2011, and Compliance Offset Protocol Livestock Projects, November 14, 2014, are adopted. All new offset projects with a commencement date after September 30, 2022, must use the most recent version of the adopted protocol. Exceptions are listed in this subsection:

(i) Exceptions to adopting the Livestock Projects Compliance Offset Protocol, November 14, 2014, by reference:

(A) Every use of the word "regulation" in the Livestock Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in Table 6.1.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(G) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(H) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.

(I) Every reference to section 95102 of the regulation is amended to WAC 173-446-020.

(J) Section 1.2(a)(8) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(K) Section 1.2(a)(24) is not adopted.

(L) Section 1.2(a)(29) is amended to: "Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO₂e.

(M) Section 3.2(b) is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(N) Section 5(c) is amended to: GHG emissions reductions must be quantified over an entire reporting period. The initial reporting period may consist of six to 24 consecutive months, and all subsequent reporting periods consist of 12 consecutive months and must meet the reporting requirements referred to in WAC 173-446-525.

(O) Section 5(e) is amended to: Global warming potential values must be determined consistent with the definition of carbon dioxide equivalent in WAC 176-441-040 Table A-1.

(ii) Exceptions to adopting the Compliance Offset Protocol Live-stock Projects, October 20, 2011, by reference:

(A) Every reference to ARB is amended to ecology except Table 6.1.

(B) Section 1, Paragraph 4 is not adopted.

(C) Section 3.1 is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(b) The California Air Resources Board, Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015, are adopted. All new offset projects with a commencement date after September 30, 2022, must use the most recent version of the adopted protocol. Exceptions are listed in this subsection:

(i) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, June 25, 2015:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, June 25, 2015, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 2.1.(c.) (4), section 2.2.(b.) (6), section 2.3.(c.) (7), Table 3.1, 3.1.(a.) (2), section 3.2.(b.), section 5.2.1.(c.), section 7.1.1.(26.), Table A.1, Appendix A (f.), Appendix A (g.), Appendix A (h.), Equation C.3., Appendix B(g.), Appendix C (a.) (3.) (A.) (2.), Appendix C (a.) (4.) (A.) (2.), Equation C.12., Appendix C (b.) (3.) (A.) (2.), Appendix C (b.) (4.) (A.) (2.), Appendix E.(b.) (2.), Appendix E.(b.) (3.), Appendix F.(a.), Appendix F.(b.), Appendix F.(d.), Appendix F.(g.).

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.

(F) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(G) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(H) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(I) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.

(J) Every reference to section 95985 of the regulation is amended to WAC 173-446-580.

(K) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.

(L) Section 1.1.(b.) is not adopted.

(M) Section 1.2(a.) (14) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(N) Section 3.2(f.) is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(O) Section 3.5.3.(b)(2) is amended to: For an improved forest management project, a quantity of compliance instruments equal to the total number of ARB offset credits issued to the project over all preceding reporting periods, multiplied by the appropriate compensation rate indicated in Table 3.2, must be retired.

(P) Section 3.6.(a)(2)(C)(1) is not adopted.

(ii) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, November 14, 2014:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 3.8.2 Paragraph 3, Table 3.2, Section 6.2.1 Paragraph 3, Appendix A A.3, Appendix C C.1, Appendix C C.2, Appendix F.

(D) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(G) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.

(H) Section 1. Paragraph 3 is not adopted.

(I) Section 3.4. text stating "and where applicable, all Early Action Offset Credits issued pursuant to section 95990(i) of the Regulation" is not adopted.

(J) Section 3.5. Paragraph 3 text stating "The recordation of a conservation easement may be used to denote the commencement date of pre-existing projects between December 31, 2006, and December 31, 2010." is not adopted.

(K) Section 3.6. Paragraph 3 is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(iii) Exceptions to adopting the U.S. Forest Projects Compliance Offset Protocol, October 20, 2011:

(A) Every use of the word "regulation" in the U.S. Forest Projects Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology except in section 3.8.2 Paragraph 3, Table 3.2, Section 6.2.1 Paragraph 3, Appendix A. A.3, Appendix C. C.2, Appendix C. C.3, Appendix E, Appendix F.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

- (E) Every reference to section 95974 of the regulation is amended to WAC 173-446-515.
- (F) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.
- (G) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.
- (H) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.
- (I) Every reference to section 95983 of the regulation is amended to WAC 173-446-570.
- (J) Every reference to section 95985 of the regulation is amended to WAC 173-446-580.
- (K) Every reference to section 95986 of the regulation is amended to WAC 173-446-585.
- (L) Section 1. Paragraph 3 is not adopted.
- (M) Section 3.4. text stating "and where applicable, all Early Action Offset Credits issued pursuant to section 95990(i) of the Regulation" is not adopted.
- (N) Section 3.5. Paragraph 3 text stating "The recordation of a conservation easement may be used to denote the commencement date of pre-existing projects between December 31, 2006, and December 31, 2010." is not adopted.
- (O) Section 3.6. Paragraph 3 is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."
- (P) Section 11, "Forest Buffer Account" definition is amended to: Forest buffer account is defined in the regulation as a holding account for forest project compliance offset credits administered by ecology. It is used as a general insurance mechanism against unintentional reversals for all forest offset projects listed under a compliance offset protocol.
- (Q) Section 11, "Listed" definition is amended to: A forest project is considered "listed" when the offset project operator or authorized project designee is registered with ecology or an approved offset project registry, submits all required documentation for project listing in the regulation and this protocol, and the project has been approved by ecology or an approved offset project registry for listing.
- (c) The California Air Resources Board, Compliance Offset Protocol Ozone Depleting Substances Projects, October 20, 2011, (~~and~~) Compliance Offset Protocol Ozone Depleting Substances, November 14, 2014, and the Ecology Compliance Offset Protocol Ozone Depleting Substances Projects, version 1.0 are adopted. All new offset projects with a commencement date after (~~September 30, 2022~~) (rule adoption date), must use the (~~most recent version of the adopted protocol~~) Ecology Compliance Offsets Protocol Ozone Depleting Substances Projects, version 1.0, unless use of a prior protocol is approved by the department. Exceptions are listed in this subsection:
- (i) Exceptions to adopting the Ozone Depleting Substances Compliance Offset Protocol, November 14, 2014, by reference:
- (A) Every use of the word "regulation" in the Ozone Depleting Substances Compliance Offset Protocol, November 14, 2014, is amended to refer to chapter 173-446 WAC.

(B) Every reference to subarticle 13 is amended to refer to WAC 173-446-500 through 173-446-595.

(C) Every reference to ARB is amended to ecology.

(D) Every reference to section 95973 of the regulation is amended to WAC 173-446-510.

(E) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(F) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(G) Every reference to section 95977 of the regulation is amended to WAC 173-446-530.

(H) Section 1.1.(b.) is not adopted.

(I) Section 1.2(a)(2) is amended to: "Cap and trade regulation" or "regulation" means ecology's regulation establishing the Climate Commitment Act Program, chapter 173-446 WAC.

(J) Section 1.2(a)(19) is amended to: "Registry offset credit" means a credit issued by an offset project registry for a GHG reduction or GHG removal enhancement of one metric ton of CO₂e.

(K) Section 3.2(d.) is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(L) Section 3.5.(c.) is not adopted.

(ii) Exceptions to adopting the Ozone Depleting Substances Compliance Offset Protocol, October 20, 2011, by reference:

(A) Every use of the word "Regulation" in the Ozone Depleting Substances Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.

(B) Every reference to ARB is amended to ecology.

(C) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(D) Every reference to section 95976 of the regulation is amended to WAC 173-446-525.

(E) Section 1. Paragraph 4 is not adopted.

(F) Section 3.1 is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

(d) The California Air Resources Board, Compliance Offset Protocol Urban Forest Projects October 20, 2011, is adopted. All new offset projects with a commencement date after September 30, 2022, must use the most recent version of the adopted protocol. Exceptions are listed in this subsection:

Exceptions to adopting the California Air Resources Board, Compliance Offset Protocol Urban Forest Projects, October 20, 2011:

(A) Every use of the word "regulation" in the Urban Forest Projects Compliance Offset Protocol, October 20, 2011, is amended to refer to chapter 173-446 WAC.

(B) Every reference to ARB is amended to ecology.

(C) Every reference to section 95975 of the regulation is amended to WAC 173-446-520.

(D) Section 1. Paragraph 5 is not adopted.

(E) Section 3.1 is not adopted and is replaced with: "If any portion of the offset project is located on land over which the state of Washington does not have jurisdiction, the offset project operator must demonstrate that the landowner(s) consent(s) to regulation pursuant to WAC 173-446-520 (3)(d) or has entered into an agreement with ecology pursuant to WAC 173-446-520 (3)(e)."

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

WAC 173-446-580 Invalidity of ecology offset credits. (1) An ecology offset credit issued under this chapter will remain valid unless invalidated pursuant to this section.

(2) Time frame for invalidation. If a determination is made pursuant to subsection (6) of this section, ecology may invalidate an ecology offset credit pursuant to this section within the following time frame:

(a) Within eight years of issuance of an ecology offset credit, as that corresponds to the end of the reporting period for which the ecology offset credit is issued, if the ecology offset credit is issued pursuant to WAC 173-446-555, except as provided in (b) and (c) of this subsection.

(b) The eight-year time frame set forth in (a) of this subsection does not apply if one of the following requirements is met:

(i) The offset project operator or authorized project designee for an offset project developed under the applicable compliance offset protocol does all of the following:

(A) Engages a different verification body that has not verified the offset project data report for the issuance of ecology offset credits, and meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in WAC 173-446-535 (1) through (3), to conduct a second independent offset verification, except for offset project data report modifications, for the same offset project data report. Although the requirements for offset project data report modifications do not need to be met under this subsection, any misreporting, discrepancies, or omissions identified during the independent offset verification must be included in the offset material misstatement calculation prepared under WAC 173-446-535 (4)(d)(xv). If minor correctable errors that do not result in an offset material misstatement are identified during the independent offset verification and the verification body does not identify any other nonconformance that would result in an adverse offset verification statement, the verification body must issue a qualified positive offset verification statement and identify the correctable errors on the offset verification statement;

(B) The second independent offset verification must be completed within three years of ecology's issuance of the ecology offset credits through the submittal of an offset verification statement, and the offset project operator or authorized project designee must receive a positive or qualified positive offset verification statement from the new verification body for the same offset project data report.

(I) If the offset project is listed with an offset project registry, the verification body must submit the detailed verification report and offset verification statement from the second independent offset verification to the offset project registry and ecology.

(II) The offset project registry must review the offset verification documents and submit a report to ecology that includes the details and findings of the offset project registry's review. During its review, the offset project registry may request additional information from the verification body and offset project operator or authorized project designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

(III) The offset project registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.

(IV) The offset project registry has an additional 15 business days to submit its report to ecology. Ecology will review the offset project registry report and determine based on the report and all the information submitted by the verification body and offset project operator or authorized project designee, if applicable, if the invalidation time frame will be reduced. During its review, ecology may request additional information, clarifications, and revisions to the materials, if necessary.

(C) If the requirements in (b) (i) (A) and (B) of this subsection are met, the ecology offset credits issued under the offset project data report may only be subject to invalidation within three years of the date that corresponds to the end of the reporting period for which the ecology offset credits were issued, if the ecology offset credits were issued pursuant to WAC 173-446-555.

(ii) The offset project operator or authorized project designee for an offset project does all of the following:

(A) Engages a different verification body than the one which conducted the most recent verification, and that meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in WAC 173-446-535 (1) through (3), to verify a subsequent offset project data report; and

(B) The verification conducted by the new verification body for the subsequent offset project data report under this subsection in order to reduce the invalidation time frame of any ecology offset credits is completed through the submittal of an offset verification statement within, at a maximum, three years from the date that ecology offset credits were issued for the reporting period. The verification of the subsequent offset project data report must result in a positive or qualified positive offset verification statement from the new verification body.

(C) If the requirements in (b) (ii) (A) and (B) of this subsection are met, the ecology offset credits issued for no more than three reporting periods prior to the reporting period for which the subsequent offset project data report was verified by a new verification body may only be subject to invalidation within three years of the date that corresponds to the end of the reporting period for which the ecology offset credits were issued.

(c) If an offset project developed under one of the compliance offset protocols is in the last reporting period of a crediting period, and will not have a renewed crediting period, the invalidation time frame for up to the last three reporting periods may be reduced from eight years to three years if the following requirements are met for the last offset project data report of the crediting period:

(i) The offset project operator or authorized project designee engages a different verification body that has not verified the offset project data reports and that meets the requirements for conflict of interest in WAC 173-446-545 and rotation of verification services in

WAC 173-446-535 (1) through (3), to conduct a second independent offset verification, except for offset project data report modifications, for the last offset project data report of the crediting period. Although the requirements for offset project data report modifications do not need to be met under this subsection, any misreporting, discrepancies, and omissions identified during the independent offset verification must be included in the offset material misstatement calculation prepared under WAC 173-446-535 (4)(d)(xv); and

(ii) The second independent offset verification must be completed within three years of ecology's issuance of the ecology offset credits through the submittal of an offset verification statement, and the offset project operator or authorized project designee must receive a positive or qualified positive offset verification statement from the new verification body for the same last offset project data report.

(iii) If the offset project is listed with an offset project registry, the verification body must submit the detailed verification report and offset verification statement for the second independent offset verification to the offset project registry and ecology.

(iv) The offset project registry must review the offset verification documents and submit a report to ecology that includes the details and findings of the offset project registry's review. During its review, the offset project registry may request additional information from the verification body and the offset project operator or authorized project designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

(v) The offset project registry has 45 calendar days to review the offset verification information after complete and accurate verification documents are received from the verification body.

(vi) The offset project registry has an additional 15 business days to submit its report to ecology. Ecology will review the offset project registry's report and make a determination based on the report and all the information submitted by the verification body and offset project operator or authorized project designee, if applicable, and may request additional information, clarifications, and revisions to the materials, if necessary.

(3) Grounds for initial determination of invalidation. Ecology may determine that an ecology offset credit is invalid for the following reasons:

(a) The offset project data report contains errors that overstate the amount of GHG emission reductions or GHG removal enhancements by more than five percent;

(i) If ecology finds that there has been an overstatement by more than five percent, ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period. Within 10 calendar days of making this determination, ecology will notify the verification body that performed the offset verification and the offset project operator or authorized project designee.

(A) Within 25 calendar days of receiving a written notification by ecology under this subsection, the verification body shall provide ecology any available offset verification services information or correspondence related to the offset project data report.

(B) Within 25 calendar days of receiving a written notification by ecology under this subsection, the offset project operator or authorized project designee shall provide ecology data that is required to calculate GHG emission reductions and GHG removal enhancements for the offset project according to the requirements of this chapter or

the applicable compliance offset protocol, the detailed offset verification report prepared by the verification body, and any other information requested by ecology. The offset project operator or authorized project designee shall also make available personnel who can assist in ecology's evaluation determination of how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period.

(ii) Ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period using the best information available.

(A) Ecology will determine the actual GHG emission reductions and GHG removal enhancements achieved by the offset project for the applicable reporting period based on, at a minimum, the following information:

(I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that reporting period; and

(II) Any previous offset project data reports submitted by the offset project operator or authorized project designee, and the offset verification statements rendered for those reports.

(B) In determining how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period, ecology may use the following methods, as applicable:

(I) The applicable compliance offset protocol;

(II) In the event of missing data, ecology will rely on the missing data provisions set forth in the applicable compliance offset protocol; and

(III) Any information reported under this chapter for this reporting period and past reporting periods.

(iii) If ecology determines that an overstatement has occurred, ecology shall determine the number of ecology offset credits that correspond to the overstatement using Eq. 580-1, rounded to the nearest whole ton:

If: $IEcologyOC > \times 1.05$
Then: $OR = IEcologyOC - ROPDR$ Eq. 580-1

Where:

"OR" is the amount of overstated GHG emission reductions and GHG removal enhancements for the applicable offset project data report, rounded to the nearest whole ton;

"IEcologyOC" is the number of ecology offset credits issued under the applicable offset project data report;

"ROPDR" is the number of GHG emissions reductions and GHG removal enhancements determined by ecology for the applicable offset project data report;

(b) The offset project activity(ies) or implementation of the offset project was not in accordance with all local, regional, state, and national environmental and health and safety laws and regulations that apply in the jurisdiction in which the offset project is located and that directly apply to the offset project, including as specified in the applicable compliance offset protocol during the reporting period for which the ecology offset credit was issued.

(i) For offset projects using the ozone depleting substances (ODS) protocol, noncompliance events that do not directly impact ODS handling, destruction, and emissions from ODS processing will not be considered grounds for an initial determination of invalidation.

(ii) For offset projects using a forestry, ozone depleting substances, or livestock protocol, if ecology finds that the offset

project is out of regulatory compliance, then ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period. Within 10 calendar days of making this determination, ecology will notify the verification body that performed the offset verification and the offset project operator or authorized project designee.

(A) Within 25 calendar days of receiving a written notification by ecology under this subsection, the verification body shall provide ecology any available offset verification services information or correspondence related to the relevant offset project data report(s).

(B) Within 25 calendar days of receiving a written notification by ecology under this subsection, the offset project operator or authorized project designee shall provide ecology data that is required to calculate GHG emission reductions and GHG removal enhancements for the offset project according to the requirements of this chapter or the applicable compliance offset protocol, the detailed offset verification report prepared by the verification body, and any other information requested by ecology. The offset project operator or authorized project designee shall also make available personnel who can assist in ecology's evaluation of how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period.

~~((iii))~~ (iii) Ecology shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period using the best information available.

(A) Ecology will determine the actual GHG emission reductions and GHG removal enhancements achieved by the offset project for the applicable reporting period based on, at a minimum, the following information:

(I) The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that reporting period;

(II) Any previous offset project data reports submitted by the offset project operator or authorized project designee, and the offset verification statements rendered for those reports; and

(III) Any information relating to the regulatory compliance of the offset project provided by the offset project operator, authorized project designee, or regulatory oversight body.

(B) In determining how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable reporting period, ecology may use the following methods, as applicable:

(I) The applicable compliance offset protocol;

(II) In the event of missing data, ecology will rely on the missing data provisions set forth in the applicable compliance offset protocol; and

(III) Any information reported under this chapter for this reporting period and past reporting periods.

~~((iii))~~ (iv) If ecology determines that an offset project is out of regulatory compliance then ecology shall determine the number of ecology offset credits, rounded to the nearest whole number, that correspond to the time period that the offset project is determined to be out of regulatory compliance. All offset credits corresponding to this time period shall be deemed ineligible for crediting, and therefore any offset credits corresponding to this time period are subject to invalidation.

~~((iv))~~ (v) For offset projects using an urban forestry protocol, if ecology finds that the offset project is out of regulatory compliance, then ecology shall determine that all ecology offset credits issued for the applicable reporting period are subject to invalidation; or

(c) Ecology determines that offset credits have been issued in any other voluntary or mandatory program within the same offset project boundary and for the same reporting period in which ecology offset credits were issued for GHG emission reductions and GHG removal enhancements.

(d) The following circumstances shall not be grounds for invalidation under this section:

(i) A reversal that occurs under a forest offset project. If such a reversal occurs, the provisions in WAC 173-446-570 apply in lieu of this section; and

(ii) An update to a compliance offset protocol will not result in an invalidation of ecology offset credits issued to an offset project listed or reporting under a previous version of the compliance offset protocol.

(4) Suspension of transfers. When ecology makes an initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred, ecology will immediately block any transfers of ecology offset credits for the applicable offset project data report. Once ecology makes a final determination under subsection (6) of this section, the block on transfers for any ecology offset credits not invalidated will be canceled.

(5) Identification of affected parties. If ecology makes an initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred, ecology will identify the following parties:

(a) Any registered entities that currently hold any ecology offset credits in their holding and/or compliance accounts from the applicable offset project data report;

(b) The parties for which ecology transferred any ecology offset credits from the applicable offset project data report into the retirement account; and

(c) The current, or most recent (in the case of an offset project after the final crediting period) offset project operator and authorized project designee, and, for forest offset projects the current, or most recent (in the case of an offset project after the final crediting period) forest owner(s).

(6) Final determination and process of invalidation.

(a) Ecology will provide notification of its initial determination to the parties identified under subsection (5) of this section, and provide each party an opportunity to submit additional information to ecology prior to making its final determination, as follows:

(i) Ecology will specify in its notification the reason for its initial determination that one of the invalidation circumstances listed in subsection (3) of this section has occurred.

(ii) The parties identified under subsection (5) of this section will have 25 calendar days after receiving such notification to provide any additional information to ecology.

(iii) Ecology may request any additional information as needed.

(b) Within 30 calendar days after all information is submitted under this subsection, ecology will make a final determination of whether one or more circumstances listed in subsection (3) of this section has occurred and whether to invalidate ecology offset credits.

(i) Ecology will notify the parties identified under subsection (5) of this section of ecology's final determination of invalidation.

(ii) Ecology will notify any approved program for linkage of the invalidation at the time of ecology's final determination.

(7) Removal of invalidated ecology offset credits from holding, compliance, and/or forest buffer accounts. If ecology makes a final determination under subsection (6) of this section that an ecology offset credit is invalid, then:

(a) Ecology offset credits will be removed from any holding, compliance, or forest buffer account, as follows;

(i) If an ecology offset credit is determined to be invalid due to any of the circumstances listed in subsection (3) (a) or (b) ~~((+i))~~ (ii) of this section, then:

(A) Ecology will determine which ecology offset credits will be removed from the compliance and/or holding accounts of each party identified under subsection (5) (a) of this section according to Eq. 580-2, truncated to the nearest whole ton:

$$HEcology = \frac{TOT Holding}{IEcology OC} \text{ OR } \text{Eq. 580-2}$$

Where:

"OR" is the number of overstated GHG emission reductions and GHG removal enhancements for the applicable offset project data report;

"IEcologyOC" is the number of ecology offset credits issued under the applicable offset project data report;

"TOT Holding" is the total number of ecology offset credits currently being held in a compliance and/or holding account by each party identified under subsection (5)(a) of this section for the applicable offset project data report; and

"HEcology" is the total number of ecology offset credits, rounded to the nearest whole ton, that will be removed from the holding and/or compliance account of each party identified under subsection (5)(a) of this section.

(B) Ecology will determine the number of ecology offset credits issued to each party identified in subsection (5) (a) of this section, under the applicable offset project data report using Eq. 580-2, and remove that number of ecology offset credits from each party's holding and/or compliance account.

(C) Ecology will determine the number of ecology offset credits issued under the applicable offset project data report, for all projects that contribute to the forest buffer account, using Eq. 580-2, multiply that number by the project's reversal risk rating, and remove the resulting number of ecology offset credits from the forest buffer account.

(ii) If an ecology offset credit is determined to be invalid due to any of the circumstances listed in subsection (3) (b) ~~((+ii))~~ (iii) or (c) of this section, ecology will remove all ecology offset credits issued under the applicable offset project data report from any holding and/or compliance accounts of the parties identified under subsection (5) (a) of this section, and from the forest buffer account.

(b) The parties identified in subsection (5) of this section will be notified of which ecology offset credits, identified by serial numbers, were removed from any compliance, holding, and/or forest buffer accounts.

(c) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were removed from any compliance, holding, and/or forest buffer accounts.

(8) Requirements for replacement of ecology offset credits.

(a) If an ecology offset credit that was issued to a nonsequestration offset project or an urban forest offset project, or that was issued to a U.S. forest offset project, and that has been transferred to the retirement account, is subsequently determined by ecology to be invalid for only the circumstances listed in subsection (3)(a) or (b) (~~((i))~~) (ii) of this section, then:

(i) Each party identified under subsection (5)(b) of this section must replace ecology offset credits with the number of valid offset credits or other approved compliance instruments determined for the individual party using Eq. 580-3, truncated to the nearest whole ton:

$$RE_{\text{ecologyOC}} = (TOT_{\text{Retired}}/IE_{\text{ecologyOC}}) * OR \quad \text{Eq. 580-3}$$

Where:

"RE_{ecologyOC}" is the calculated total number of retired ecology offset credits for the applicable offset project data report, rounded to the nearest whole ton, that must be replaced by each individual party identified under subsection (5)(b) of this section;

"TOT_{Retired}" is the total number of ecology offset credits from the applicable offset project data report ecology transferred into the retirement account;

"IE_{ecologyOC}" is the number of ecology offset credits issued under the applicable offset project data report; and

"OR" is the number of metric tons of overstated GHG emission reductions and GHG removal enhancements calculated for the applicable offset project data report.

(ii) Each party identified under subsection (5)(b) of this section must replace the ecology offset credits with the number of valid ecology offset credits or other approved compliance instruments calculated using Eq. 580-3, within six months of notification by ecology.

(iii) If each party identified under subsection (5)(b) of this section does not replace the number of invalidated ecology offset credits calculated using Eq. 580-3, within six months of ecology's notice of invalidation, each unreplaced invalidated ecology offset credit will constitute a violation for that party under WAC 173-446-610.

(A) If a party identified under subsection (5)(b) of this section is no longer in business, ecology will require the offset project operator identified under subsection (5)(c) of this section to replace the number of invalidated ecology offset credits calculated for that party using Eq. 580-3 and will notify the offset project operator that they must replace the credits.

(B) If the offset project operator is required to replace ecology offset credits pursuant to (a)(iii)(A) of this subsection, the offset project operator must replace each invalidated ecology offset credit with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology.

(C) If the offset project operator is required to replace ecology offset credits pursuant to (a)(iii)(A) of this subsection, and the offset project operator does not replace each invalid ecology offset credit within six months of notification by ecology, each unreplaced invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(iv) Ecology will determine the number of invalid ecology offset credits issued under the applicable offset project data report and invalidate that number of ecology offset credits.

(v) The parties identified under subsection (5) of this section will be notified of the number of ecology offset credits, identified by serial numbers, that were invalidated.

(vi) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(b) If an ecology offset credit that was issued to a nonsequestration offset project or an urban forest project, or that was issued to a U.S. forest offset project, and that has been transferred to the retirement account, is subsequently determined to be invalid due to any of the circumstances listed in subsection (3)(b)(~~(ii)~~) (iii) or (c) of this section, then:

(i) The parties identified under subsection (5)(b) of this section must replace each ecology offset credit for the applicable offset project data report that it previously requested ecology transfer into the retirement account with a valid ecology offset credit or another approved compliance instrument within six months of notification by ecology.

(ii) If a party identified under subsection (5)(b) of this section does not replace each invalidated ecology offset credit within six months of ecology's notice of invalidation, each unreplaced invalidated ecology offset credit will constitute a violation for that party under WAC 173-446-610.

(A) If the party identified under subsection (5)(b) of this section is no longer in business, ecology will require the offset project operator identified under subsection (5)(c) of this section to replace the number of invalidated ecology offset credits calculated for that party using Eq. 580-3 and will notify the offset project operator that they must replace them.

(B) If the offset project operator is required to replace ecology offset credits pursuant to (b)(ii)(A) of this subsection, the offset project operator must replace each invalidated ecology offset credit with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology.

(C) If the offset project operator is required to replace ecology offset credits pursuant to (b)(ii)(A) of this subsection and the offset project operator does not replace each invalidated ecology offset credit within six months of notification by ecology, each unreplaced invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(iii) The parties identified under subsection (5) of this section will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(iv) Any approved program for linkage will be notified of which ecology offset credits, identified by serial numbers, were invalidated.

(c) The offset project operator of an offset project that had ecology offset credits removed from the forest buffer account must replace a percentage of the ecology offset credits removed from the forest buffer account equal to the percentage of ecology offset credits retired from the forest buffer account for unintentional reversals as of the date ecology makes the final determination of invalidation, rounding up to the next whole number, with a valid ecology offset credit or another approved compliance instrument, within six months of notification by ecology. If the offset project operator does not replace the required number of ecology offset credits within six months of notification by ecology, each unreplaced invalidated ecology offset credit will constitute a violation for that offset project operator under WAC 173-446-610.

(9) Change of forest owner or offset project operator. When a forest owner or offset project operator changes, whether by merger, acquisition, or any other means, the successor forest owner or offset project operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor forest owner or offset project operator to submit compliance instruments. For the avoidance of doubt, this obligation of the successor forest owner or offset project operator, as applicable, consists of the difference between the number of metric tons of CO₂e and the number of valid ecology offset credits or other approved compliance instruments submitted by the predecessor forest owner.