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Climate Commitment Act Program Rule

Webinar

June 13, 2022

Presenters & Panelists

Rebecca Ponzio is the Climate and Fossil Fuel Program Director at WEC/WCV, directing the organization's work to stop new fossil fuel terminals alongside passing and implementing proactive climate policy. Before joining WEC, Rebecca worked for several years in salmon recovery at the Puget Sound Partnership and Shared Strategy and before that did environmental permitting and compliance at the Department of Ecology. She has a dual master's degree from the University of Washington in Urban Planning and in Public Administration.

David Mendoza is the Director of Advocacy and Engagement for the WA chapter of The Nature Conservancy overseeing state and federal lobbying and communications staff. Prior to TNC, he was the founder of Inclusive Solutions, a policy, advocacy and communications consulting firm. Projects ranged from industry research and policy development to legislative advocacy and communications. Clients included state government agencies, cannabis retail companies, non-profits and labor unions. While representing Front & Centered, a statewide coalition of communities of color, David conceived of and led the development of the now enacted HEAL Act, WA's state foundational environmental justice law. He also served as a Co-Chair of the state Environmental Justice Task Force and has been recently appointed by Governor Inslee to WA state's first Environmental Justice Council.

Caitlin Krenn is WA Environmental Council's Climate and Clean Energy Campaign Manager. Caitlin has organized with grassroots community groups, ballot initiatives, and candidate campaigns. She's also worked in state and local government and had the privilege of working for the Nisqually Indian Tribe for nearly a decade, collaborating to develop programs addressing community-defined needs and partnering with Native-led food sovereignty efforts across the region. At WEC, Caitlin participates in coalition work to advance equitable and impactful climate policies.

Presenters & Panelists

Trevor Anderson has over 11 years' experience in the sustainability field, with a focus on climate mitigation. As Founder and President of Anderson Climate Action Consulting, Trevor is lending his technical expertise in cooperation with and direction from staff at the TNC-Washington and WEC, to provide analysis of the procedures and protocols for offset projects in the proposed Climate Commitment Act Program Rule. He previously worked as a Policy Manager with the Climate Action Reserve, where he developed carbon offset protocols for use in the voluntary carbon market and provided oversight to projects being verified under the California Compliance Offset Program. Trevor is also a Manager with Edison Energy's Sustainability Team, where he is responsible for leading and supporting clients define and execute decarbonization strategies pertaining to Scope 1, 2, and 3 greenhouse gas (GHG) inventory management, science-based target (SBT) and Net-Zero goal setting, climate risk, and carbon offset procurement.

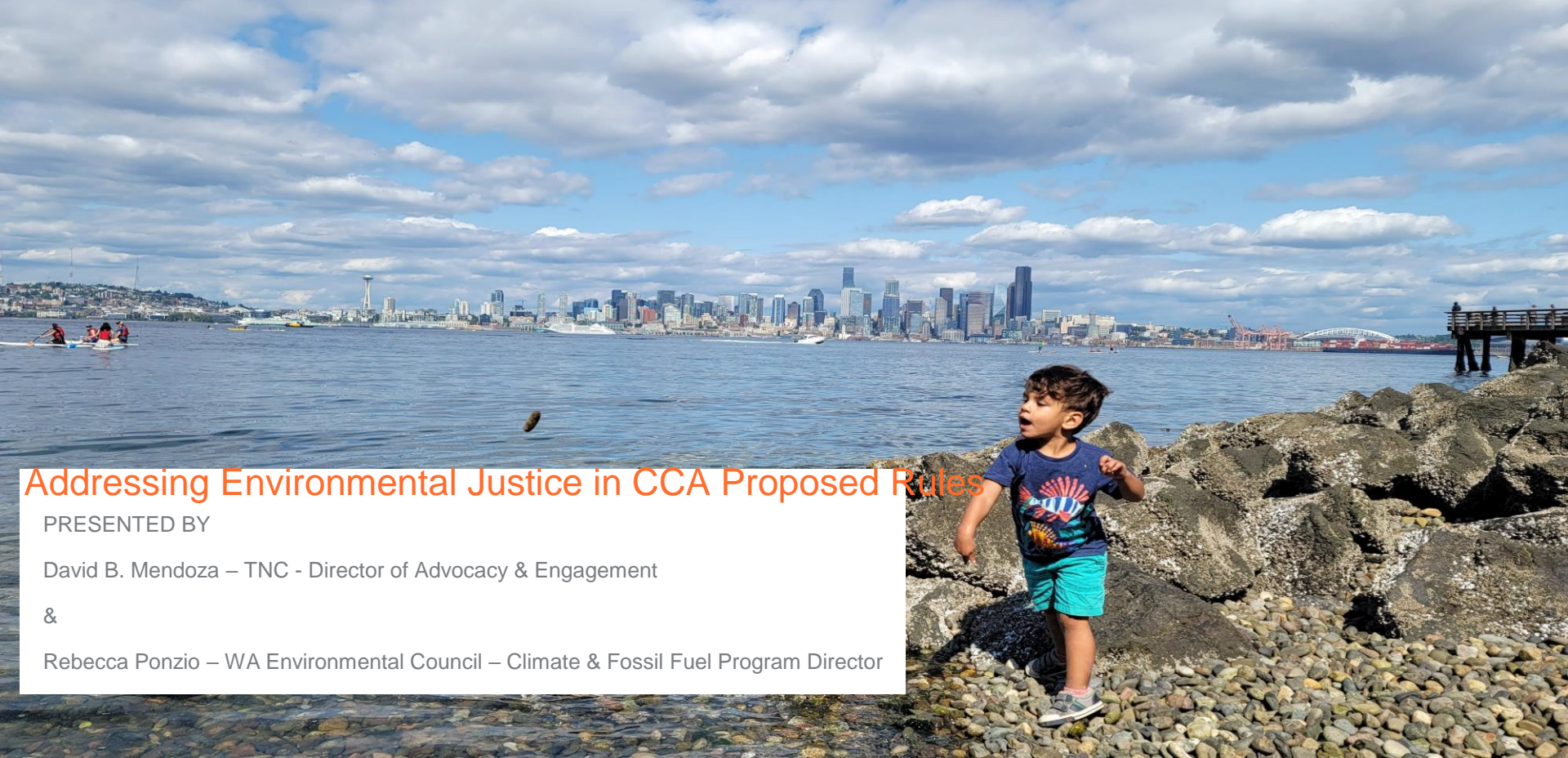
Kelly Hall is responsible for leading Climate Solutions' policy development, bringing together key stakeholders and allies to support equitable policies, and building an integrated communications, advocacy and government affairs strategy to achieve a clean energy economy in Washington. Kelly brings years of experience in the utility sector from her previous role as Climate Solutions' Senior Policy Manager and her work at Renewable Northwest, where she designed and advocated for policies and regulatory frameworks to expand renewable energy penetration in the Pacific Northwest.

Michael Lazarus is a Senior Scientist and Director of the Stockholm Environment Institute's US Center. He advises, publishes, and presents widely on climate policy, carbon markets, and energy planning. He has participated in the design and implementation of carbon pricing instruments, as advisor to the Western Climate Initiative, member of the Methodology Panel of the Clean Development Mechanism, and advisor to national governments through the World Bank Partnership for Market Readiness. He has worked with Washington State agencies on climate action and energy planning processes, has taught Energy and Climate Policy at the Evans School of Public Administration at University of Washington, and holds an M.S. in Energy and Resources from the University of California, Berkeley.

Presenters & Panelists

Rachel Baker believes forests are central to solving many global challenges, including halting climate change and building resilient communities. Her career has focused on strategies to promote forest conservation and sustainable development internationally. Prior to joining WEC, Rachel worked for Earthworm Foundation, where she partnered with the private sector to eliminate deforestation and social exploitation in commodity supply chains. Rachel previously managed the forest campaign at the Bank Information Center, collaborating with civil society to advocate for forests and forest peoples in multilateral development finance. She has also carried out field research on community forest use in Oaxaca, Mexico, and Darién, Panama. Rachel holds a Master of Forestry and a Master of Environmental Management from Duke University's Nicholas School of the Environment.

Mariana Sanchez Castillo is a field organizer at WEC/WCV working on grassroots engagement in state policy and electoral campaigns. They grew up in Mexico City, and moved to the U.S during high school. Mariana graduated from the University of Puget Sound in Tacoma, with a BA in Anthropology, and Environmental Policy in May 2020. Mariana is passionate about intersectional climate justice and wrote their senior thesis on how marginalized communities in the Global South are disproportionately impacted by climate-induced disasters such as hurricanes, wildfires, and floods. In their free time, they organize with young people at Sunrise Movement, and love exploring the outdoors to do hiking, camping, and biking with friends.



Addressing Environmental Justice in CCA Proposed Rules

PRESENTED BY

David B. Mendoza – TNC - Director of Advocacy & Engagement

&

Rebecca Ponzio – WA Environmental Council – Climate & Fossil Fuel Program Director



Environmental Justice Council

- 16 members appointed by the Governor:
 - 2 EJ practitioners
 - 1 at large representative
 - 4 tribal representatives
 - 7 members representing communities & youth
 - 2 business and worker representatives
- EJ Council must:
- Provide guidance to agencies on implementation of environmental justice requirements including rulemaking and all aspects of program and distribution of resources.



EJ Council Roles in the CCA

- **Air Quality**
 - The EJ Council must provide recommendations to implementing agencies on meaningful consultation with vulnerable populations including on Ecology's community engagement plan supplement required under RCW 70A.65.020.
- **Cap & Invest Program**
 - The EJ Council must provide recommendations to Legislature, agencies, and the Governor on development and implementation of the cap and invest program established in the CCA
- **Offsets**
 - Offset credit limits can be reduced for a specific entity if the Department of Ecology determines, in consultation with the EJ Council, that the covered entity is likely to contribute substantively to cumulative air pollution burden in an overburdened community (using criteria established by Ecology in consultation with the EJ Council).

Goals, Metrics, and Evaluating the Impacts of the CCA on Environmental Justice & Environmental Health

- **Forum to analyze policies adopted under the CCA Cap & Invest Program**
 - The EJ Council must provide a forum to analyze policies adopted under CCA to determine
 - if they lead to improvements within overburdened communities.
- **Recommendations for Evaluating Programs, Activities, or Projects**
 - The EJ Council must recommend procedures and criteria for evaluating programs,
 - activities, or projects.
- **Co-Pollutant Emissions Reductions Goals**
 - The EJ Council must recommend co-pollutant emissions reduction goals in overburdened



EJ Council in Proposed Rules

WAC-173-44-600(6)(d)

- Only significant reference in the rules. Regards consultation role in offsets reductions for specific entities.

CONCERN: No direction in rules on how EJ Council will be integrated into analysis or evaluation of key program decisions by Ecology.

Areas Not Addressed by Current Rule

- TBD on when and what type of process to address:
 - EJ Council oversight and input into investments from CCA revenue
 - Process for determining linkage.

Areas to Strengthen Rule: Allowances, Offsets & Linkage





ALLOWANCES

WAC 173-446-050: Covered and opt-in entity registration

- IDEA: Require facilities to disclose proximity to overburdened communities and tribal lands including documentation of permitted air and water pollution.

WAC 173-446-200, 210: Establishing baseline for allowances

- IDEA: Require Ecology to share with public and EJC data they use to establish total program baseline, subtotal baselines, allocation baselines, and total program allowance budgets
- IDEA: Include direction for Ecology to share of all data, recommendation on baseline and rationale to meet consultation requirement with EJC



ALLOWANCES

WAC 173-446-220: Distribution of allowances to EITEs.

No required information related to overburdened communities, pollution, or tribal nations in the rule except as for facilities built after July 25, 2021 in this section.

- CONCERN: No articulation of how the EJC will review or assess changes to EITE allowances over time.

WAC 173-446-220 (2) (d) (ii) – Upward adjustment of allowances due to Best Available Technology (BAT)

- IDEA: Require additional information on the impact of that BAT on pollution, communities, workforce, etc.
- IDEA: Strengthened by adding: “Ecology may not make an upward adjustment to the reduction schedule of a facility if the department determines that the fuels, processes, and equipment used by the facility create excessive negative environmental impacts.”
- IDEA: Direct Ecology to share data, recommendation and rationale, prior to decision, to meet consultation

ALLOWANCES – UTILITIES

CCA requires electric utilities to receive 100% free allowances in order to mitigate rate impacts. The no cost allowances can be consigned (e.g. sold) for auction and then invested for the benefit of ratepayers.

WAC 173-446-230: Distribution of allowances to electric utilities

- IDEA: Require disclosure by utilities on how revenue spent and establish oversight authority of those investments to meet the law.

WAC 173-446-240: Distribution of allowances to natural gas utilities

- IDEA: The rule should require data to track investments and ensure that Ecology and EJC has information to know impact of this part of the law.



ALLOWANCES & LINKAGE

WAC 173-446-250 – Removing & Retiring Allowances

- CONCERN: No requirement that analysis by Ecology take into account impacts on overburdened communities.
- IDEA: Require Ecology to share all data, rationale and recommendation on removing or retiring allowances, prior to final decision, each year.

WAC 173-446-335: Floor & Ceiling price

- IDEA: Require evaluation of price impact on overburdened communities and program functionality.
- IDEA: Require similar determination on the impact of aligning prices with California.
- IDEA: Require Ecology to share all data, rationale and recommendation on price, prior to final decision, each year.
 - When linkage process is announced similar process should be followed to meet consultation requirement with EJC.





ALLOWANCES & LINKAGE

WAC 173-446-340: Emission Containment Reserve Trigger Price

Rule proposes to not a set a trigger price.

- IDEA: Ecology should provide an analysis of impact on overburdened communities due to lack of a trigger price.
- IDEA: Ecology should share all data, recommendation on ECR and rationale to public and EJC.

WAC 173-446-415: Transactions Requests Between Entities

Provides suite of information required to be submitted when allowances are traded.

- IDEA: Require submission of additional information to support Ecology and the EJC in evaluating impact of program.

OFFSETS

WAC 173-446-500: Offsets - General requirements

Rule currently requires suite of information around ghg emission reduction, use of compliance protocol, compliance with monitoring, reporting

- IDEA: Empower EJC to request data evaluating “environmental benefits” if those protocols meet the needs of WA by establishing data request around how to calibrate ‘environmental benefits

WAC 173-446- 505, 510, 520, 525 – Offsets Registration, Compliance & Submissions

- IDEA: Require data submission on offset locations and ownership.
- IDEA: Require analysis ever x years to understand who is managing offset projects, who is using offsets projects, and where / what type of offset projects are being utilized.





Thank you

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Chapter 173-446 WAC: Climate Commitment Act Program Rule

Caitlin Krenn, Climate and Clean Energy Campaign Manager
WA Environmental Council



Covered Emissions in the Climate Commitment Act

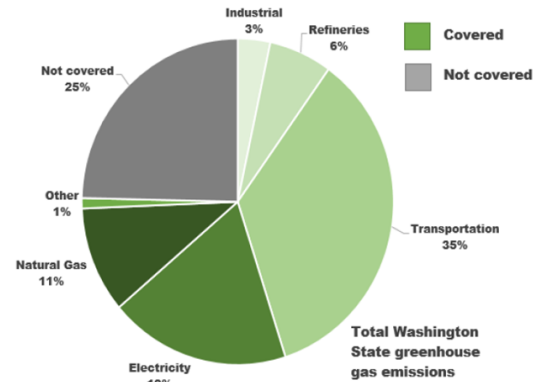
Covered – 75%

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

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





Covered Entities

<i>Sector</i>	<i>Number of Entities</i>
<i>Chemicals</i>	3
<i>Electricity Importers</i>	25 – 30
<i>Food Production</i>	10
<i>Fuel Supplier – Natural Gas Distribution</i>	6
<i>Fuel Supplier – Transportation Fuels</i>	22
<i>Government (Universities)</i>	2
<i>Manufacturing</i>	7
<i>Metals</i>	5
<i>Minerals</i>	4
<i>Natural Gas Systems</i>	14
<i>Petroleum Services</i>	7
<i>Power Plants</i>	15
<i>Pulp and Paper</i>	8
<i>Waste to Energy</i>	1
<i>Total</i>	130 – 135



Approximate Cap Trajectory

Table 13: Methods for setting total allowances in the program

<i>Year</i>	<i>Method</i>
2023	93 percent of total program baseline for 2023 – 2026
2024 – 2026	Decreases annually by an additional 7.0 percent of total program baseline for 2023 – 2026
2027	The 2026 total program allowance budget plus adjustment for newly covered sectors, reduced by an additional 7.0 percent of total program baseline for 2027 – 2030
2028 – 2030	Decreases annually by an additional 7.0 percent of total program baseline for 2027 – 2030
2031	The 2030 total program allowance budget plus adjustment for newly covered sectors, reduced by an additional 1.9 percent of total program baseline for 2031 and later
2032 – 2042	Decreases annually by an additional 1.9 percent of total program baseline for 2031 and later
2043 – 2050	Decreases annually by an additional 2.5 percent of total program baseline for 2031 and later

Table 14: Total program allowances for the first compliance period

<i>Emissions Year</i>	<i>Total Covered Emissions (MT CO₂e)</i>
2023	63,363,226
2024	58,593,951
2025	53,824,676
2026	49,055,401



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Compliance Instruments

The Program Rule establishes the structure for the trading program established by the CCA law. The commodities that are traded in the program are called *Compliance Instruments*. There are two types of Compliance Instruments:



Allowance: an authorization to emit up to one metric ton of carbon dioxide equivalent. Allowances are created by Ecology and may be obtained through direct distribution from Ecology, purchase at auction, or trading with others in the program. Allowances do not expire and may be banked.



Offset Credit: represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent. Offset credits are issued by Ecology to qualifying offset projects. Offset credits can be sold, traded, or transferred.



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Compliance Instruments

An entity with a compliance obligation under the CCA must submit 1 compliance instrument to Ecology for each ton of CO₂e emissions it's responsible for.



1 ton CO₂e



OR





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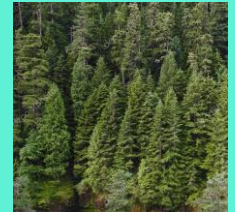
Compliance Instruments

For each Offset credit that is used for compliance, an Allowance is removed from the next year's annual allowance budget and permanently retired. This is different from California and other programs, where each Offset credit allows for a metric ton CO₂e over the cap.

CA



WA





The CCA law requires that some covered entities receive no-cost allowances:

Emissions-Intensive Trade-Exposed Manufacturing Facilities - the purpose of no-cost allowances is prevent “leakage” of emissions and jobs.

Electric and Gas Utilities - the purpose of no-cost allowances is to reduce the cost burden on ratepayers.

No cost allowances can be turned in for compliance, traded, or a combination of both.



EITE: Emissions Intensive, Trade-Exposed

All manufacturing facilities in Washington currently covered by the cap and invest program are automatically designated as Emissions Intensive, Trade-Exposed (EITE) by a list of industries in the CCA law¹.

The law mandates that each EITE facility receive no cost allowances for 100% of its baseline carbon intensity or mass-based baseline from 2023-2026, 97% from 2027-2030, and 94% from 2031-2034. The trajectory for allocating no cost allowances after 2034 has not yet been set.

¹Chapter 173-446A WAC Final Regulatory Analyses, WA Dept of Ecology, June 2022



Electric and Gas Utilities

Electric utilities - No cost allowances are allocated to electric utilities to eliminate the cost burden effect of the cap-and-invest program on ratepayers. The intent of the rule is for electric utilities to receive enough no cost allowances to cover each utility's compliance obligation plus any additional administrative burden imposed by the program through 2049.

Gas utilities - No cost allowances are allocated to gas utilities for the benefit of ratepayers. The CCA law requires that no cost allowances to gas utilities decline proportionately with the cap and mandates how these allowances must be used.



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Advocacy Priorities

- Overburdened Communities and Program Design
- Information for review and accountability
- Tribal Consultation



Overburdened Communities: Definition

"Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

"Overburdened community" includes, but is not limited to:

(a) Highly impacted communities as defined in RCW 19.405.020;

(b) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

(c) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(d) Overburdened communities identified by ecology shall include the same communities as those identified by ecology through its process for identifying overburdened communities under RCW 70A.02.010.



Advocacy Priorities

Overburdened communities

The CCA law is clear that the program should benefit overburdened communities and vulnerable populations *and* reduce health disparities. However, the draft rule lacks adequate integration of the law's clear intent to consult with, and consider impacts to, overburdened communities. Overburdened communities are only referenced in the proposed rule once outside the definitions section. The rule should be strengthened to:

- Establish an explicit process to review how the program is impacting overburdened communities and ensure Ecology has all necessary information to complete a thorough review.
- Clarify Ecology's role in evaluating impact of linkage on overburdened communities and for achieving environmental benefits of program.
- Clarify Ecology's role in evaluating impacts of all Emission-Intensive Trade-Exposed facilities (EITEs), regardless of when they become a covered entity, on overburdened communities.



Information for review and accountability

- Information to guide evaluation of impacts: Ecology should require all covered entities to provide information about their impacts to overburdened communities and to tribal lands and treaty rights, the chemicals and pollutants they process and/or manage, and if there are any violations under any permits they hold.
- Best available technology: Ecology should require an EITE applying for an upward adjustment of no cost allowances to submit information on any excessive environmental impacts of the fuels, processes, and equipment used by the facility. The rule should be clear that if the facility is found to create excessive environmental impacts, upward adjustments should be denied.



Information for review and accountability

- Public disclosure and documentation: Ecology should document and publicly share the information and process used to establish subtotal baselines.
- No cost allowances to utilities: In order to ensure that utility customers are receiving the full benefit of no cost allowances, the rule should require consumer-owned utilities to report how the value of no cost allowances are used - including program details, customers served, equity considerations, and other relevant information. Any reporting documents should be posted on Ecology's website to increase transparency.



Tribal Consultation

Ecology has an existing obligation to proactively consult and engage with tribal nations. This rule should reflect this existing obligation.

- This rule must explicitly incorporate Ecology's existing obligation to proactively engage and consult with federally recognized tribes.



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Climate Commitment Act Program Rule

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GENERAL REQUIREMENTS

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COMPLIANCE AND ENFORCEMENT

SEVERABILITY

Climate Commitment Act Program Carbon Offsets

Trevor Anderson



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Agenda

- I. Carbon Offsets 101
- II. CCA Offset Requirements
- III. Quantitative Usage Limits
- IV. Topics for Public Comment

Carbon Offsets 101

Carbon Offsets: Credits representing reductions in greenhouse gas (GHG) emissions made elsewhere, that may be purchased by an entity to compensate for its own GHG emissions

- Created from the avoidance, destruction, or removal of GHG emissions in unregulated sectors (i.e., from sectors outside the CCA's cap on emissions).
- Project examples include forests/urban forests that sequester GHGs from the atmosphere and/or reduce/prevent GHG emissions via improved management and conservation.
- 1 offset credit = 1 metric ton carbon dioxide equivalent (tCO₂e).
- Incentivize GHG emission reductions that otherwise would not have occurred.
- Result in direct and indirect global climate benefits and local co-benefits.

Two Types of Offset Markets:

1. Voluntary Carbon Market

- Where entities voluntarily purchase offsets to meet their GHG reduction goals.

2. Compliance Carbon Market (*area of today's focus*)

- Where regulated entities purchase offsets to help meet their legal compliance obligations.
- Examples: California's Cap-and-Trade Program and **Washington's Cap-and-Invest Program**.

Key Criteria:

- Real
- Additional
- Permanent
- Quantifiable
- Verifiable
- Enforceable

WA Cap-and-Invest Program Proposed Requirements - Offset Credits (1 of 2)

Overview:

- In general, program and protocol criteria are being adopted from the State of California's Compliance Offset Program.
- Requirements are stipulated for the following:
 - Implementation of projects using pre-approved compliance offset protocols.
 - Verification services of GHG emission benefits from offset projects and for verification body qualifications.
 - Listing and registration of verified credits with pre-approved carbon offset project registries.
 - Carbon credit ownership rights for project developers, including transferability of credits.
 - Approval by Ecology.

WA Cap-and-Invest Program

Proposed Requirements - Offset Credits (2 of 2)

Key Aspects:

- Offset credits must result from the use of one of the following compliance offset protocols:
 - Livestock Projects
 - Ozone Depleting Substances Projects
 - Urban Forest Projects
 - U.S. Forest Projects
- Protocols provide requirements and methods for quantifying GHG emissions benefits, eligibility rules, procedures for assessing and mitigating the risk of “reversal” (sequestration projects), and approaches for long-term monitoring and reporting.
- Independent, third-party verification of the GHG emission benefits must be employed by an accredited verification body on a pre-determined schedule.
- Projects must be registered with an accredited offset project registry and approved by Ecology prior to purchase by a capped entity.
- Projects must also provide direct environmental benefits to the State, to small landowners, and to Tribes/Tribal lands, and not result in any adverse environmental aspects.

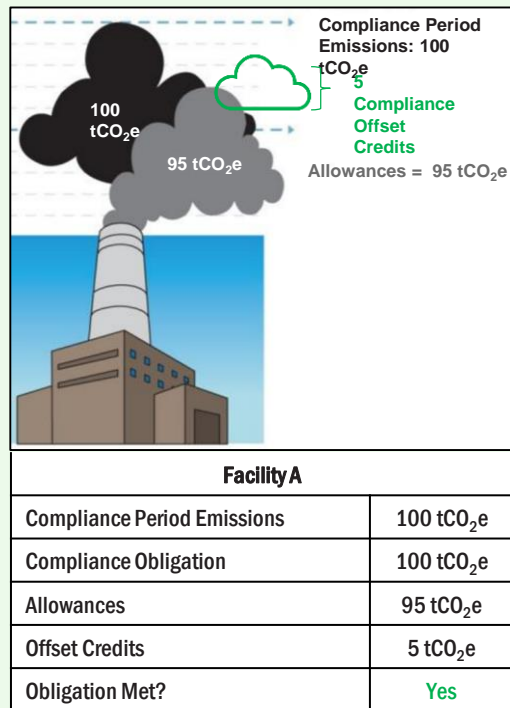
WA Cap-and-Invest Program Compliance Offset Usage Limits

A portion of a facility's compliance obligation under the Cap can come from compliance offset projects, subject to the following "quantitative usage limits".

- Covered entities can meet up to 5% of their obligations with offsets through 2026, and 4% from 2027 to 2030.¹
- An additional 3% of a facility's compliance obligation through 2026 can be met through offset projects on tribal lands, decreasing to 2% from 2027 to 2030.

****Ecology will also remove a number of allowances from the subsequent annual allowance budget equal to the number of offset credits used for compliance.**

- This is novel compared to California and results in offsets coming in under the Cap.



Example:

- During the compliance period, Facility A emits 100 tCO₂e
- Compliance obligation = 100 tCO₂e
- Facility A meets its compliance obligation by procuring 95 allowances *and* 5 compliance offset credits (i.e., 5% of its compliance obligation) from a forest project outside the Cap

1. For comparison, under California's Cap-and-Trade Program, covered entities can meet up to 4% of their obligations with offsets through 2025, and 6% from 2026 to 2030.

Identified Topics for Public Comment (1 of 2)

Linkage

- Clarity is needed on the degree of alignment necessary to link with California.

Adaptation/creation of new protocols

- Ecology needs to provide a plan for adaptation and adoption of new protocols moving forward, post-rulemaking, including
 - 1) adapting existing offset protocols based on lessons learned in California; and
 - 2) adopting new offset protocols to harness other natural climate solutions in WA, e.g., blue carbon and agriculture.

Aggregation

- The CCA requires reducing barriers and transaction costs for landowners, including through aggregation, but the draft rule does not include details on aggregation stipulations.

Adverse environmental impacts

- More clarity is needed on the implementation of a requirement that offsets do not produce “significant adverse environmental impacts”.

Identified Topics for Public Comment (2 of 2)

Overburdened communities

- Rules specify that offset usage can be reduced if overburdened communities are experiencing air pollution impact from facility emissions, however, information is needed on how offset impacts will be determined and shared

Tribal sovereignty and engagement

- It is critical that offset rules are guided by feedback from Tribal Nations, designed to facilitate participation of tribal nations, and support tribal sovereignty.

Direct environmental benefits in the state (DEBS)

- For projects located outside the state, clarity is needed on the supporting evidence required for Ecology to determine whether the project provides direct environmental benefits in the state.

Adaptive management

- It is important that Ecology establish procedures to evaluate the impact of offsets and the effectiveness of the offsets program over time.

Thank You!

