

Focus on: Cap-and-Invest Program

Confidentiality and Market Sensitive Information



The Climate Commitment Act

In 2021, the Washington Legislature passed the Climate Commitment Act (CCA) which establishes the [cap-and-invest program](#),¹ a comprehensive, market-based program to reduce carbon pollution and achieve the greenhouse gas limits set in state law. The act requires businesses to obtain allowances equal to their covered greenhouse gas emissions. These allowances can be obtained through [auctions](#)² hosted by Ecology, or bought and sold on a secondary market. The allowance auctions have already generated over one billion dollars of revenue, which helps fund projects to reduce the impact of climate change across the state. The cap will be reduced over time to ensure Washington achieves its [2030, 2040, and 2050 emissions-reduction](#)³ limits, which means Ecology will issue fewer emissions allowances each year.

The cap-and-invest program

The cap-and-invest program creates a multimillion-dollar market for greenhouse gas emission allowances. Setting a market price for greenhouse gas emissions gives every covered and opt-in entity an economic incentive to reduce emissions, and for emissions they cannot reduce, they can purchase allowances. In the secondary market, participants can transact allowances by transfers between businesses, futures contracts, and options contracts.

The large amount of money associated with this market provides incentive for participants to find any means they can to reduce their costs, including manipulating the market, which would be unfair to other participants. To safeguard against this possibility, the CCA requires Ecology to adopt provisions to guard against bidder collusion and minimize the potential for market manipulation (RCW 70A.65.100(8)).

Market sensitive information

Market sensitive information can affect prices of allowances and could even extend to affect the stock price of public companies participating in the program. Knowledge of market sensitive information may also increase the opportunities for market manipulation by participants in the program or insider trading in this or other markets. Confidentiality of market sensitive information is necessary since potential market manipulation in the secondary market is under the purview of the federal Commodity Futures Trading Commission, which assures that activities in the market are compliant with federal law.

¹ cca.wa.gov/cap-and-invest

² cca.wa.gov/auctions

³ <https://ecology.wa.gov/air-climate/reducing-greenhouse-gas-emissions/tracking-greenhouse-gases>

Market sensitive information includes:

- **Confidential business information**, which is competitively sensitive information that can impact dynamics among companies within similar industries.
- **“Insider information,”** which is not-yet-public information about Ecology’s deliberations concerning changes to the marketing regime, either through rulemaking, guidance, or requested statutory changes. Access to these details could be used to distort the market.
- **“Market position,”** which is defined in the cap-and-invest rule to include knowledge of both the current and/or expected number of allowances (and offset credits) in an entity’s cap-and-invest accounts and that entity’s current and/or expected emissions (WAC 173-446-020). By law, emissions data is already public knowledge, so the contents of each entity’s cap-and-invest accounts must remain confidential to preserve a level playing field for all participants.
- A **participant’s position** in the market is also considered sensitive information because it gives an exact picture of the entity’s needs for allowances. A participant with knowledge of another market participant’s position can use it to demand higher allowance prices when selling allowances to an entity who needs them. This practice distorts prices away from the true value of allowances, undermining the purpose of the market and creating a disadvantage for all other participants.

Exempt disclosures

The Legislature built into the program requirements for keeping certain types of information confidential. For example, the CCA prohibits participants from disclosing whether they will participate in an auction, their auction approval status, intent to bid, bidding strategy, bid price or bid quantity, or information on the bid guarantee provided. The CCA also exempts public disclosure of records containing bidding information, information in the cap and invest program’s online tracking system, and financial, proprietary, and other market sensitive information submitted to Ecology and other organizations involved in program administration.

To maintain a healthy market, it is important to keep confidential information that can influence allowance prices or that may impact participants in the program. It is these safeguards that keep the integrity of the cap-and-invest program intact, providing a fair and beneficial system to reduce our state’s greenhouse gas emissions.



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To request an ADA accommodation, contact Ecology at 564-233-1572, email at emily.powers@ecy.wa.gov, or visit <https://ecology.wa.gov/accessibility>. For Relay Service or TTY call 711 or 877-833-6341.