



Chapter 173-441 WAC and Chapter 173-446 WAC, Cap-and-Invest Program Updates and Linkage rulemaking

**An Environmental Justice Assessment (per RCW
70A.02.060)**

For the

Climate Pollution Reduction Program

Washington State Department of Ecology
Olympia, Washington

September 2026, Publication 26-14-084

Contact Information

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¹ www.ecology.wa.gov/contact

Language Access

Under the state Environmental Justice law (RCW 70A.02), Ecology is required to conduct Environmental Justice Assessments during development of certain significant actions. This Assessment provides information about the potential impacts to overburdened communities and vulnerable populations, and strategies to mitigate identified harms and fairly distribute known benefits. The Department of Ecology is committed to providing language services, including translation and interpretation, for people whose primary language is not English. To request these services, email EJ@ecy.wa.gov or call 360-407-6800.

Bajo la ley estatal de Justicia Medioambiental (RCW 70A.02), Ecología está obligada a realizar Evaluaciones de Justicia Medioambiental durante el desarrollo de ciertas medidas importantes. Esta evaluación proporciona información sobre los posibles impactos en las comunidades sobrecargadas y las poblaciones vulnerables, y las estrategias para mitigar los daños identificados y distribuir justamente los beneficios conocidos. El Departamento de Ecología está comprometido a ofrecer servicios de idioma, incluidos traducción e interpretación, para personas cuyo idioma principal no es el inglés. Para solicitar estos servicios, envíe un correo electrónico a EJ@ecy.wa.gov o llame al 360-407-6800.

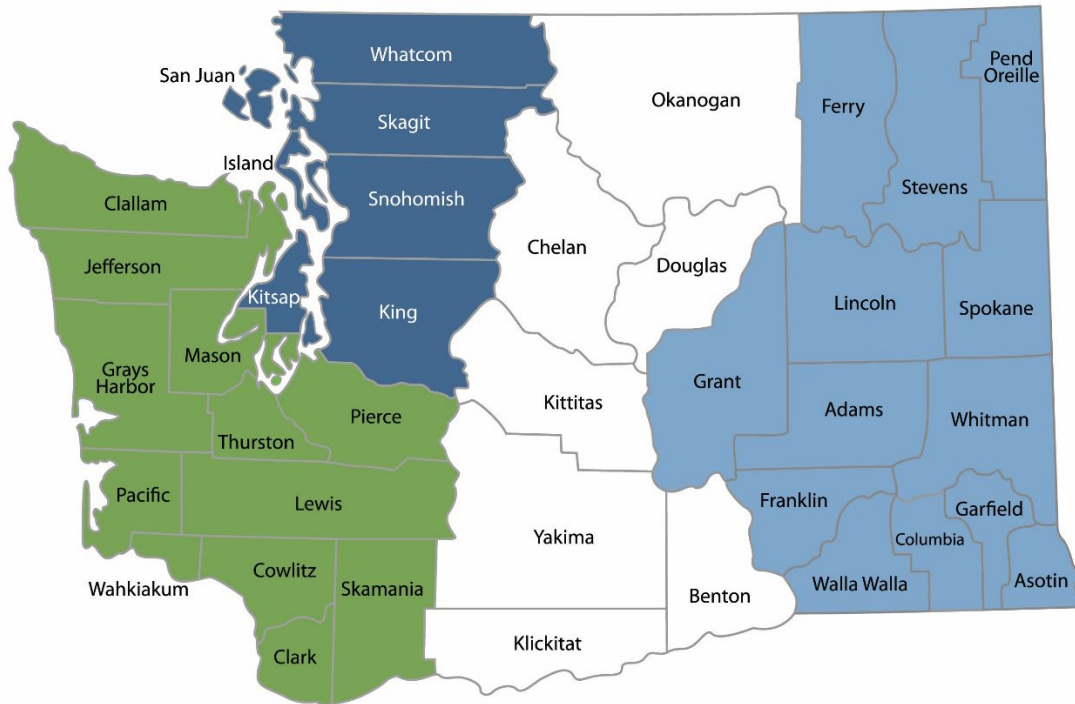
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Theo luật Công Bằng Môi Trường của tiểu bang (RCW 70A.02), Bộ Môi Sinh được yêu cầu tiến hành Đánh Giá Công Bằng Môi Trường trong quá trình triển khai một số hành động quan trọng. Đánh giá này cung cấp thông tin về các tác động tiềm ẩn đối với các cộng đồng đang chịu tổn hại và các nhóm dân cư dễ bị tổn hại cũng như các chiến lược nhằm giảm thiểu tác hại đã xác định và phân chia công bằng các lợi ích đã biết. Bộ Môi Sinh cam kết cung cấp các dịch vụ ngôn ngữ, bao gồm dịch thuật và thông dịch, cho những người có ngôn ngữ chính không phải là tiếng Anh. Để yêu cầu các dịch vụ này, quý vị vui lòng gửi email đến EJ@ecy.wa.gov hoặc gọi 360-407-6800. Nếu gọi điện, quý vị hãy yêu cầu kết nối với một thông dịch viên.

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Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region
360-407-6300

Northwest Region
206-594-0000

Central Region
509-575-2490

Eastern Region
509-329-3400

Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	P.O. Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	P.O. Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 West Alder Street Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 North Monroe Spokane, WA 99205	509-329-3400
Headquarters	Statewide	P.O. Box 46700 Olympia, WA 98504	360-407-6000

Chapter 173-446 WAC and Chapter 173-441 WAC, Cap-and-Invest Program Updates and Linkage rulemaking

An Environmental Justice Assessment (per RCW 70A.02.060)²

Climate Pollution Reduction Program
Washington State Department of Ecology
Olympia, WA

September 2026 | Publication 26-14-084



² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true#70A.02.010>

Table of Contents

Executive Summary 8

Environmental Justice Assessment 10

Glossary 11

Scope of this Environmental Justice Assessment 13

Section 1: Background 14

Section 2: Notification that an Environmental Justice Assessment has been Initiated 15

Section 3: Identify Affected Tribes 16

Section 4: Offer Consultation:..... 17

Section 5: Summary of Tribal Consultation & Engagement 18

Section 6: Identification of Overburdened Communities & Vulnerable Populations 22

Section 7: Summary of Community Engagement 26

Section 8: Potential Environmental Benefits & Harms 30

Section 9: Options to Eliminate, Reduce, or Mitigate Harms and Equitably Distribute Benefits 35

References 41

List of Figures

Figure 1: Map showing locations of facilities covered by the Cap-and-Invest Program, including EITEs: EITEs and 9/10 overlap	23
Figure 2: Map showing census tracts with an EHD overall rank 9 and 10 that have a facility covered by the Cap-and-Invest Program located in or within three miles of it	24
<i>Figure 3: Close up map of the Tacoma/Seattle region showing census tracts with an EHD overall rank 9 and 10 that have a facility covered by the Cap-and-Invest Program located in or within three miles of it</i>	<i>25</i>

Executive Summary

Ecology is adopting amendments to the Climate Commitment Act Program Rule (chapter 173-446 WAC) and the Reporting of Emissions of Greenhouse Gases Rule (chapter 173-441 WAC) to improve implementation of the Cap-and-Invest Program, facilitate the linkage of Washington's carbon market with the California-Québec carbon market, and make other necessary updates, including updates required to reflect recent legislation amending the Climate Commitment Act (CCA) (chapter 70A.65 RCW). Although the rule amendments are a precondition to linkage, they are only one necessary component to linkage, which also includes the signing of the linkage agreement (completed in June 2026) and California and Québec completing their own processes. We expect to begin operating a linked market in 2027 and the effective date of market operations (expected in 2027). This Environmental Justice Assessment focuses on potential impacts that could result from the adopted rule changes. Comments and analyses that are more broadly concerned with linking with California and Québec are reflected in the Environmental Justice Assessment on linkage and are not included in this Assessment.

Some of the rule amendments include administrative changes, provisions that facilitate linkage, changes to when allowances become available, changes in reporting baselines, new incentives for facility relocation, changes impacting utilities, coverage of new sectors, and improved enforcement. Overall, the proposed rule changes are expected to improve program implementation, support program efficiency and stability by reducing businesses' administrative costs and strengthen decarbonization incentives.

Benefits

We anticipate that the rule changes will improve the effectiveness and implementation of the Cap-and-Invest Program in meeting statewide greenhouse gas emissions reduction targets, by modifying compliance periods, improving enforcement, and creating a new incentive for emissions-intensive trade-exposed (EITE) facilities to relocate and improve efficiency. These rule changes are expected to reduce greenhouse gas emissions in the state, ensure progress toward climate goals, and ensure continued investment of auction revenues into offset projects benefiting Tribes, overburdened communities, and vulnerable populations. Rule changes are also expected to improve stability and predictability of the market, which can lead to lower and more predictable compliance costs and increased investments in emissions reductions strategies.

Harms

The rule amendments are not expected to result in substantial new direct environmental harms. Because the Cap-and-Invest Program is a market-based program that allows businesses to choose from multiple compliance pathways, there are many uncertainties in anticipating potential impacts to communities. Rule changes may impact decarbonization timelines, which could lead to slower greenhouse gas emissions reductions and slower reductions in other air pollutants. Some rule amendments may also add new or earlier compliance costs, which may be passed on to customers.

Identification of impacted communities

As the Cap-and-Invest Program Rule (chapter 173-446 WAC) and the Reporting of Emissions of Greenhouse Gases Rule (chapter 173-441 WAC) implement a statewide climate program, all geographic areas within Washington could be impacted by the rule amendments. This includes all federally recognized Tribes in Washington and Tribes with land or territories in Washington.

While this is a statewide action, we anticipate that communities near covered facilities, including EITEs and Spokane's waste-to-energy facility, or rail corridors may be impacted by potential changes to statutory decarbonization timelines and reductions in criteria air pollutant emissions.

Tribal consultation

We offered Tribal consultation on this rulemaking beginning in April 2024 and hosted four Tribal forums. Sixteen Tribes attended the forums. In addition, we received two comment letters from the Swinomish Indian Tribal Community.

Through engagement with Tribes, Ecology made several changes to rules related to offset credit use. Specifically, we made rule changes that allow a greater portion of Washington offset credits to come from projects on Tribal lands. We also sought to address concerns raised by Tribes about continued Tribal engagement. We were not able to address requests to provide capacity-building grants, as this was out of scope for the rulemaking and is not within Ecology's authority.

Community engagement

We conducted community engagement from July 2024 to August 2026 by focusing on outreach to organizations because of our capacity constraints, the statewide and market-based nature of the action, and the technical aspects of the rule changes. We received comments from nine individuals, three community-based organizations, and four environmental organizations that mentioned impacts to overburdened communities.

Mitigation measures

We were able to mitigate potential harms and equitably distribute benefits from the action by building in provisions that reduce the likelihood of compliance costs being passed on to consumers, encouraging relocation of EITEs that contribute to cumulative health burdens in adjacent communities, and by building in safeguards to ensure continued investments in projects with direct environmental benefits within Washington.

Environmental Justice Assessment

Purpose of the Environmental Justice Assessment

The Environmental Justice (EJ) Assessment process helps assess the environmental justice impacts of Significant Agency Actions (SAAs). The assessment informs and supports consideration of overburdened communities and vulnerable populations when making decisions. This information assists with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of health disparities.

The EJ assessment process aligns with Washington's Environmental Justice law called the Healthy Environment for All (HEAL) Act ([RCW 70A.02](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02)³). The assessment process draws on best practices established in [Promising Practices for EJ Methodologies in NEPA Reviews](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf)⁴.

Environmental justice assessments are to be completed for the following actions:

- The development and adoption of significant legislative rules as defined in RCW.05.328⁵
- The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out
- A capital project, grant, or loan award of at least \$12,000,000 or a transportation project, grant, or loan of at least \$15,000,000
- The submission of agency request legislation to the office of the governor or the office of financial management for approval

This assessment is not required to be a comprehensive or an exhaustive examination of all potential impacts of a significant agency action and does not require novel quantitative or economic analysis of the proposed significant agency action.

The time and resource investment, and depth of assessment, will be influenced by the reasonable applicability of the questions to the agency action.

Ecology plans to update this document and incorporate what we learn through practice, community engagement, Tribal consultation, and any guidance we may receive from the Environmental Justice Council.

This Environmental Justice Assessment is adapted for publication and does not include internal agency process instructions.

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true>

⁴ https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf

⁵ <http://app.leg.wa.gov/RCW/default.aspx?cite=34.05.328>

Glossary

For consistency purposes, Ecology has chosen to use the following terms:

Climate Commitment Act (CCA): Enacted by the Washington Legislature in 2021, this law established the Cap-and-Invest Program, which limits greenhouse gas emissions from Washington’s largest emitting sources and industries.

Allowance: Authorization to emit up to one metric ton of carbon dioxide equivalent.

Criteria air pollutants: Six pollutants that can be harmful to human health and the environment with National Ambient Air Quality Standards designated by the Environmental Protection Agency. The pollutants are particulate matter, ground-level ozone, nitrogen dioxide, carbon monoxide, lead, and sulfur dioxide.

Compliance instrument: An allowance or offset credit. One compliance instrument is equal to one metric ton of carbon dioxide equivalent. Entities can use offset credits to meet a limited portion of their compliance obligation – less than 8%.

Compliance obligations: The requirement to submit compliance instruments (allowances and offset credits) equivalent to a covered entity’s covered emissions during each compliance period.

Covered emissions: Covered emissions are those greenhouse gas emissions that are regulated by the Cap-and-Invest Program. Certain sources of emissions are excluded, such as emissions from the combustion of biofuels or biomass, as specified in chapter 70A.65.080 RCW.

Covered entity: An entity that is required to participate in the Cap-and-Invest Program. They must acquire compliance instruments (allowances or a limited amount of offset credits) equal to their covered emission. Generally, an entity is covered if it emits over 25,000 metric tons of carbon dioxide equivalent per year. Note: Covered entities may be referenced in this Assessment as “entities,” “businesses,” or “facilities” regulated by the Cap-and-Invest Program. Not all covered entities are businesses, but the term “business” is used throughout for simplicity.

Direct environmental benefits (DEBs): In the context of offsets in Washington, this means environmental benefits accomplished through the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of the release of any pollutant that could have an adverse impact on land or waters of the state (WAC 173-446-020).

Environmental justice: The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm (from RCW 70A.02.010(8)).

Emissions-intensive, trade-exposed industries (EITEs): Industrial facilities that include petroleum refineries and manufacturing facilities that produce chemicals, paper, food, airplanes, building materials, and other products. They use high levels of energy and release large amounts of greenhouse gas emissions, while also facing significant national or global competition for their products. They were given special consideration by the Legislature and receive most of the allowances they need at no-cost until at least 2034.

Entity or entities: See definition for “covered entities.”

Facilities: For the purpose of this Environmental Justice Assessment, facility is used to refer to industrial facilities, power plants, pipeline compressor stations, and other covered entities with a fixed location.

No-cost allowances: These are allowances distributed by Ecology directly to a covered entity at no-cost to that covered entity. Under the CCA, electric utilities, natural gas utilities, and EITEs receive allowances at no-cost. Each of these groups receives differing amounts of no-cost allowances and is subject to different requirements on how they use their no-cost allowances.

Market participant: An entity that is registered in the Cap-and-Invest Program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

Offset credit: A compliance instrument that can be purchased as an alternative to allowances. One offset credit is equal to one metric ton of carbon dioxide. Entities can use offset credits to meet a limited portion of their compliance obligation – less than 8%.

Offset project: Actions that reduce or remove greenhouse gas emissions not already covered by Cap-and-Invest or other regulatory programs. Offset projects must be implemented in alignment with one of the adopted protocols and provide direct environmental benefits to Washington to generate offset credits that are eligible for use in the Cap-and-Invest Program.

Overburdened communities: A geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, as defined in RCW 70A.65.010. Note: The public and organizations used a variety of terms in their comments, including highly impacted, frontline, and marginalized communities.

Revised Code of Washington (RCW): A law passed by the Legislature and signed by the Governor.

Vulnerable populations: Population groups that are likely to be at a higher risk for poor health outcomes in response to environmental harms, as defined in RCW 70A.02.

Washington Administrative Code (WAC): Also known as a “rule”; interprets and implements state laws (RCW) or federal laws.

Scope of this Environmental Justice Assessment

Ecology is adopting amendments to the Climate Commitment Act Program Rule⁶ (chapter 173-446 WAC) and the Reporting of Emissions of Greenhouse Gases Rule⁷ (chapter 173-441 WAC) to improve implementation of the Cap-and-Invest Program⁸, facilitate the linkage of Washington's carbon market with the California-Québec carbon market, and make other necessary updates, including updates required to reflect recent changes in the Climate Commitment Act⁹ (CCA). Although the rule amendments are a precondition to linkage, they are only one necessary component to linkage, which also includes the signing of the linkage agreement (completed in June 2026) and California and Québec completing their own processes. We expect to begin operating a linked market in 2027. This Environmental Justice Assessment focuses on potential impacts that could result from the adopted rule changes. Comments and analysis related to linkage more broadly can be found in the separate Environmental Justice Assessment dedicated to linkage.¹⁰

Ecology proposed agency request legislation¹¹ to make statutory changes necessary to facilitate linkage, which the Legislature subsequently passed and was signed into law in March 2024 (Senate Bill 6058).^{12, 13} Ecology began this rulemaking in April 2024 to make corresponding regulatory changes and other updates to the Cap-and-Invest Program and later expanded the rulemaking in March 2025 to include other statutory and program improvement changes.¹⁴

Ecology went through a separate three-year public engagement process on carbon market linkage that started in January 2023 and concluded in May 2026. As required by the CCA, Ecology conducted an Environmental Justice Assessment focused on understanding how linking Washington's carbon market to the California-Québec market could potentially impact overburdened communities and Tribes.¹⁵ Following the public engagement process and analysis of potential impacts, Ecology announced a decision to link, and Ecology's Director signed a linkage agreement in June 2026.¹⁶

⁶ Washington State Legislature. "Chapter 173-446 WAC, Climate Commitment Act Program Rule."

<https://app.leg.wa.gov/wac/default.aspx?cite=173-446>.

⁷ Washington State Legislature. "Chapter 173-441 WAC, Reporting of Emissions of Greenhouse Gases."

<https://app.leg.wa.gov/WAC/default.aspx?cite=173-441>.

⁸ Washington Department of Ecology. "Washington's Cap-and-Invest Program." <https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest>.

⁹ RCW 70A.65

¹⁰ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California- Québec carbon market: An Environmental Justice Assessment. <https://apps.ecology.wa.gov/publications/documents/2614019.pdf>.

¹¹ Washington Department of Ecology. January 2024. Cap-and-Invest Program Agency Request Legislation: An Environmental Justice Assessment. <https://apps.ecology.wa.gov/publications/documents/2414001.pdf>.

¹² Washington State Legislature. "SB 6058 - 2023-24." <https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6058-S2.SL.pdf?q=20260803111552>.

¹³ SB 6058 or Senate Bill 6058 refers to chapter 352, Laws of 2024; Engrossed Second Substitute Senate Bill 6058.

¹⁴ Washington Department of Ecology. "Chapters 175-441 and 173-446 WAC – Cap-and-Invest Program Updates and Linkage" <http://ecology.wa.gov/Cap-and-Invest-Program-Updates-and-Linkage-Rule>.

¹⁵ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California- Québec carbon market: An Environmental Justice Assessment. <https://apps.ecology.wa.gov/publications/documents/2614019.pdf>.

¹⁶ Visit the linkage webpage for more information on the linkage process: <https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/linkage>.

Section 1: Background

The information in this section is provided for the Office of Financial Management's [dashboard](#)¹⁷ which includes all covered agency's Environmental Justice Assessment notices.

Descriptive title of project/action: Cap-and-Invest Program Updates and Linkage Rulemaking (chapter 173-446 WAC and chapter 173-441 WAC)

Date Environmental Justice Assessment initiated: March 31, 2025

Ecology Program/Office: Climate Pollution Reduction Program

Point of contact for Environmental Justice Assessment: Surabhi Subedi, Climate Pollution Reduction Program Rulemaking Planner, CPRRulemaking@ecy.wa.gov

Significant Agency Action type, select one or more:

- ☒ Rulemaking
- ☐ New grant or loan program
- ☐ New capital project, grant, or loan of \$12 million or more
- ☐ Request legislation
- ☐ Other, explain:

Short summary of the action: In April 2024, the Washington Department of Ecology initiated a rulemaking process to consider amendments to chapter 173-446 WAC and chapter 173-441 WAC that would facilitate the option of linking Washington's carbon market with the California-Québec carbon market. In March 2025, Ecology announced a new rulemaking that replaced the previous rulemaking and expanded the scope to include other updates to the Cap-and-Invest Program rules.

In June 2026, Ecology announced a decision to sign a linkage agreement with California and Québec. When effective, this linkage will create a single unified carbon market across the three jurisdictions so that allowances issued by California and Québec can be used by Washington businesses for compliance, and vice versa. Linkage will also allow for joint allowance auctions, a common allowance price, and the free trading of allowances between jurisdictions.

This rulemaking is needed to update chapter 173-446 WAC and chapter 173-441 WAC in line with legislative changes and to make other updates to ensure the rules are consistent with a potential linked market. The rule changes will not in themselves automatically establish market linkage but are necessary for linkage along with other separate agency actions, such as signing the formal linkage agreement in June 2026.

¹⁷ Office of Financial Management. "Environmental justice assessment notices." <https://ofm.wa.gov/budget/budget-related-information/agency-activities/environmental-justice-assessment-notices>.

Additionally, the CCA requires the adoption of allowance budgets for the second compliance period (2027–2030), ensuring that emissions reductions align with Washington's 2030, 2040, and 2050 greenhouse gas emissions limits. This rule also facilitates the coverage of additional sectors—waste-to-energy facilities and railroads—under the Cap-and-Invest Program in future compliance periods, as required by statute.¹⁸

Pursuant to the CCA, Ecology will modify and adopt rules to continue to address topics associated with imported electricity and centralized electricity markets. Ecology will consider rules relevant to allowance allocation to electric utilities.

Through this rulemaking, Ecology will make updates as necessary to improve implementation of the Cap-and-Invest Program and to ensure the rule aligns with statute.

Identify the method(s) for the public to comment on this proposed action for this assessment:

Ecology initiated this Environmental Justice Assessment and the rulemaking process and provided engagement opportunities that included public meetings and comment periods. Ecology conducted public engagement, with outreach focused on organizations representing people from overburdened communities and vulnerable populations for the purpose of developing the Environmental Justice Assessment for this rule. Ecology also held Tribal forums and invited Government-to-Government consultation with Tribes. Ecology conducted engagement for the Linkage rulemaking that started in April 2024, and the comments gathered during that process will also be used to inform this Assessment. Ecology was also available to meet with individual organizations and groups at their request during the rulemaking process. Ecology shared opportunities for feedback and participation through its website and distribution list. Please visit the rulemaking webpage for updates. Please contact Surabhi Subedi, Climate Pollution Reduction Program Rulemaking Planner, at CPRRulemaking@ecy.wa.gov for any questions.

Ecology webpage with information about this proposed action:

<https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-cap-and-invest-program-updates-and-linkage>

Section 2: Notification that an Environmental Justice Assessment has been Initiated

This section instructs Ecology staff to notify OFM about the initiation of the action.

¹⁸ RCW 70A.65.080

Section 3: Identify Affected Tribes

This section summarizes preliminary planning for Tribal Consultation. Ecology must offer consultation with Tribes on significant agency actions that affect federally recognized Tribes' rights and interest in their tribal lands.

Preparing for Tribal Consultation

1. Is the proposed action likely to have any local or regional impacts to federally reserved Tribal rights and resources, including but not limited to, those protected by treaty, executive order, or federal law? Choose one of the following:

- ☒ Yes
- ☐ No
- ☐ Unsure

2. List any federally recognized Tribes that are expected to be affected by the proposed action. If it is determined during consultation that Tribes do not wish to be included, then do not include them.

Since the impacts of this rulemaking are statewide, all federally recognized Tribes in Washington or with lands and territories in Washington could be affected by the rule changes. The Tribes include:

- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Chehalis Reservation
- Confederated Tribes of the Colville Reservation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation of Oregon
- Cowlitz Indian Tribe
- Hoh Indian Tribe
- Jamestown S'Klallam Tribe
- Kalispel Tribe of Indians
- Lower Elwha Klallam Tribe
- Lummi Nation
- Makah Tribe
- Muckleshoot Indian Tribe
- Nez Perce Tribe
- Nisqually Indian Tribe
- Nooksack Indian Tribe
- Port Gamble S'Klallam Tribe
- Puyallup Tribe
- Quileute Tribe
- Quinault Indian Nation
- Samish Indian Nation
- Sauk-Suiattle Indian Tribe

- Shoalwater Bay Indian Tribe
- Skokomish Indian Tribe
- Snoqualmie Indian Tribe
- Spokane Tribe of Indians
- Squaxin Island Tribe
- Stillaguamish Tribe of Indians
- Suquamish Tribe
- Swinomish Indian Tribal Community
- Tulalip Tribes
- Upper Skagit Indian Tribe

3. If it is determined at any other point in the process of the assessment that Tribes have self-identified as being potentially impacted by the action, then include them in the assessment and offer consultation.

There were no additional Tribes who self-identified as impacted by the rule changes.

4. Describe plans to offer consultation to identified Tribes.

Ecology sent an initial letter in April 2024 to Tribal Governments to notify them of the rulemaking proposal and to invite Government-to-Government consultation. Ecology also sent additional notices during the rulemaking proposal and announcement filing dates. In total, Ecology hosted four Tribal forums during the rule development period to engage directly with Tribes, describe the goals and objectives of the rulemaking process, and answer questions and receive comments. The forums were on July 9, 2024, October 9, 2024, April 29, 2025, and August 5, 2025.

Sixteen Tribes attended the forums. In addition, forums were attended by the following Tribal organizations: Affiliated Tribes of Northwest Indians, Columbia River Inter-Tribal Fish Commission, Northwest Indian Fisheries Commission, and Point No Point Treaty Council. The Washington Governor's Office of Indian Affairs also attended the forums.

Section 4: Offer Consultation:

This section directs Ecology staff to offer consultation with Tribes on significant agency actions that affect federally recognized Tribes' rights and interest in their tribal lands.

Section 5: Summary of Tribal Consultation & Engagement

Tribal consultation is intended to inform the answers to all questions in this section.

Summary of Tribal Consultation

1. Describe potential impacts (including harms and benefits) to federally recognized Tribal rights and interests in their Tribal lands.

Rule amendments related to offset credits, emissions-intensive, trade-exposed industries (EITEs) and coverage of new facilities, and House Bill 1975¹⁹ and the timing of greenhouse gas emissions could affect Tribal lands and resources. Changes affecting demand for offset projects could have environmental and economic implications for Tribes that host or develop offset projects, while changes affecting covered facilities located on or near Tribal lands could have potential air quality and other environmental impacts. Ecology anticipates that Tribes may benefit from other rule amendments that strengthen the carbon market, improve the implementation of the Cap-and-Invest Program, and support demand for offset projects on Tribal lands.

Ecology received two comment letters from the Swinomish Indian Tribal Community (September 2024 and July 2026). The Tribe raised concerns about lack of Tribal engagement, funding, and capacity support in the draft rules.²⁰ They shared concerns about how the regulatory changes could impact environmental and habitat restoration projects as well as renewable energy development. They urged Ecology to maintain consistent funding to Tribes through the program to address ongoing projects and restoration efforts. They also requested increased technical support for Tribes to engage better with CCA funded projects that may impact natural resources.

Potential impacts to offset projects

In response to concerns from Tribes about reduced prices for offset credits in a linked market, Ecology added flexibility to allow a greater portion of Washington offset credits to come from projects on Tribal land. To make this change, Ecology submitted agency request legislation—passed in 2024 (Senate Bill 6058²¹)—that is now being implemented through this rulemaking. In other words, for an entity to maximize the use of offset credits for compliance, the entity must source a portion of their offset credits from offset projects on Tribal Lands.

In this rulemaking, Ecology adopted rule amendments to require that Tribal offsets used to fulfill this additional portion of a covered entity's compliance obligation must also provide

¹⁹ House Bill 1975 refers to chapter 320, Laws of 2025; Second Substitute House Bill 1975.

²⁰ Grant funding is appropriated by the Legislature every biennium from CCA accounts. Even as auction revenues have fluctuated, funding for these grants has remained consistent or increased biennium to biennium.

²¹ Washington State Legislature. "SB 6058 - 2023-24." <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6058-S2.SL.pdf?q=20260803111552>.

direct environmental benefits to Washington.²² These rule changes are expected to increase demand for offset projects on Tribal lands that provide direct environmental benefits to Washington, which may lead to a more equitable distribution of environmental and economic benefits that result from the generation and sale of offset credits.

These rule amendments benefit Tribes with federally recognized Tribal land in and near Washington by preserving demand in a linked market for Tribal carbon offsets from projects that provide direct environmental benefits to Washington.

Emissions-intensive, trade-exposed industries (EITEs)

Tribes who have an EITE facility near or on their lands, resources, or communities may be impacted by this rulemaking.

EITE facilities typically use fossil fuels to power industrial processes, which can release greenhouse gases, criteria air pollutants, and hazardous air pollutants. These air pollutants can have harmful impacts on the environment and human health. There are ten Tribal reservations that either have EITEs within their boundaries or are located within 15 miles of one or more EITEs. This includes each of the five petroleum refineries located in Washington. Ecology has heard concerns from Tribal members about the impact that EITEs may be having on local air quality and the health and well-being of the community and environment.

The rule amendments do not directly change the number of no-cost allowances provided to EITEs. However, they create a new incentive for businesses to close down older EITE facilities and replace them with new facilities in Washington that are less emissions intensive. The new rule does this by enabling businesses to request the transfer of the allocation baseline from the older facility to the new facility. If this were to occur, then potential benefits may include improved environmental conditions and reduced air pollution for communities near a closed facility and the creation of jobs near the newly opened facility. A potential harm may be a loss of jobs in the community where the facility closed. The new facility could also become a new source of air pollution that may impact nearby communities, but this would depend on the technology used at the new facility.

House Bill 1975 and the timing of greenhouse gas emission

Ecology is updating its rule language to match House Bill 1975, which changes how annual baselines are set for allowance budgets.²³ Instead of tying the greenhouse gas limits to the beginning of each year, the limits must now match the statewide greenhouse gas emissions cap by the end of each year. For example, emission allowance budgets would be set to align with the 2030 limit in December 2030 instead of January 2030.

²² From 2023-2026, covered entities can use offset credits for up to 8% of their compliance obligation through a combination of general offset credits (up to 5%) and credits from projects on federally recognized Tribal lands (up to 3%). This is reduced to a total of 6% from 2027 onward, with 4% from general offset credits and 2% from projects on Tribal lands.

²³ Washington State Legislature "House Bill 1975 – 2024-25." <https://lawfilesexternal.wa.gov/biennium/2025-26/Pdf/Bills/Session%20Laws/House/1975-S2.SL.pdf?q=20260927202618>.

Because the annual greenhouse gas emissions limit would be set at the end of the year instead of the beginning, each step down in the greenhouse gas emissions cap happens later. That means the greenhouse gas emissions cap will decline more slowly, and emission reductions may also happen more slowly.

Slower greenhouse gas emission reductions could delay potential air pollutant reductions and associated air quality and health benefits in some Tribal communities near facilities. Both greenhouse gases and air pollutants are released when fossil fuels are combusted.²⁴ However, the relationship between these greenhouse gas emissions and air pollutants is dependent on a variety of factors, including operating conditions, types of processes and equipment, installed air pollution control measures, fuels, types of decarbonization measures implemented, and others.

Waste-to-Energy facilities and railroad companies

Waste-to-energy facilities will become covered by the Cap-and-Invest Program beginning in the second compliance period. Railroad companies will become covered in the third compliance period. Alignment with California and Québec's compliance periods would result in railroad companies entering the program earlier than previously scheduled (2029 rather than 2031), when linkage goes into effect.

Tribes with lands, resources, or communities near a waste-to-energy facility or rail corridors could experience potential air-quality and health benefits from railroad companies entering the program earlier.

2. Describe potential impacts related to Tribal rights and interests that are not in Tribal lands.

As mentioned above, it is possible that there may be impacts to Tribal cultural resources not on Tribal land if they are near EITEs or railroad companies due to rule changes that encourage EITE efficiency and bring railroads into the program two years early. For both sectors, this potentially reduces greenhouse gas and—potentially—localized air pollutant emissions.²⁵

3. Summarize recommendations from Tribes to:

a. Mitigate or eliminate potential harms from the action

The Swinomish Indian Tribal Community submitted two separate comment letters during the rulemaking process. Their comments specific to the linkage process are separately included in the linkage Environmental Justice Assessment.²⁶ In those letters, the Swinomish Indian Tribal Community provided the following recommendations related to this rulemaking:

²⁴ Over 80% of Washington's facility-level greenhouse gas emissions are attributed to combustion.

²⁵ Both greenhouse gases and air pollutants are released when fossil fuels are combusted (combustion is the main source of Washington's facility-level greenhouse gas emissions). However, it is important to note that the relationship between greenhouse gas emissions and air pollutants depends on many factors. The exact location and magnitude of any potential air quality impacts are uncertain because covered entities determine how and where to reduce emissions to meet their compliance obligations and because of the uncertain relationship between greenhouse gas and air pollutant emissions.

²⁶ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market: An Environmental Justice Assessment. apps.ecology.wa.gov/publications/documents/2614019.pdf.

- Include language in the final rule that provides clear processes for engaging.
- Consult with Tribal Governments on decisions that could affect their rights, lands, and resources.

b. Equitably distribute benefits from the action

In the two comment letters submitted by the Swinomish Tribe, they suggested the following:

- Include provisions in the rules that provide capacity building grants for Tribes to have the resources to evaluate and participate in carbon markets and greenhouse gas reporting.
- Develop funding mechanisms that support Tribal and state-wide environmental and habitat restoration efforts and provide equitable access to economic opportunities arising from carbon markets.

4. Describe how consultation, engagement, and analyses of impacts to Tribes has informed the development of the action. If it has not, explain why.

Through engagement with Tribes, Ecology made several changes to rules related to offset credit use.

Ecology added flexibility to allow a greater portion of Washington offset credits to come from projects on Tribal land. To make this change, Ecology submitted agency request legislation, which resulted in new legislation passed in 2024 (Senate Bill 6058²⁷), and is now being implemented through this rulemaking. In other words, for an entity to maximize the use of offset credits for compliance, the entity must source a portion of their offset credits from offset projects on Tribal Lands.

Ecology adopted rule amendments to require that Tribal offsets used to fulfill this additional portion of a covered entity's compliance obligation (3% through 2026; 2% for 2027 and beyond) must also provide direct environmental benefits to Washington.²⁸ These rule changes are expected to increase demand for offset projects on Tribal lands that provide direct environmental benefits to Washington, which may lead to a more equitable distribution of environmental and economic benefits that result from the generation and sale of offset credits.

These rule amendments benefit Tribes with federally recognized Tribal land in and near Washington by preserving demand in a linked market for Tribal carbon offsets from projects that provide direct environmental benefits to Washington.

We were not able to address requests for Tribal capacity building grants, as it is outside the scope of this rulemaking.

²⁷ Washington State Legislature. "SB 6058 - 2023-24." <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6058-S2.SL.pdf?q=20260803111552>.

²⁸ From 2023-2026, covered entities can use offset credits for up to 8% of their compliance obligation through a combination of general offset credits (up to 5%) and credits from projects on federally recognized Tribal lands (up to 3%). This is reduced to a total of 6% from 2027 onward, with 4% from general offset credits and 2% from projects on Tribal lands.

See Section 9, Question 1 for more details on recommendations we received, and actions Ecology is taking to address concerns related to potential impacts of linkage.

5. Describe any plans to continue consultation or engagement with Tribes related to this action.

Ecology will continue to provide information to and work with Tribes on the implementation of the Cap-and-Invest Program, including the rule amendments adopted in this rulemaking. Tribes are invited to contact the Climate Pollution Reduction Program Tribal Liaison with questions or concerns regarding the outcome of this rulemaking. The invitation for Government-to-Government consultation will be extended again when Tribal Chairs are informed of rule adoption.

Section 6: Identification of Overburdened Communities & Vulnerable Populations

This section identifies overburdened communities and vulnerable populations, as identified in the [definitions of RCW 70A.02](#), who will be affected by the action.

Identify Overburdened Communities and Vulnerable Populations

1. Identify the geographic area(s) anticipated to be affected by the action.

As the Cap-and-Invest Program Rule (chapter 173-446 WAC)²⁹ and the Reporting of Emissions of Greenhouse Gases Rule (chapter 173-441 WAC)³⁰ implement a statewide climate program, all geographic areas within Washington could be impacted by the rule amendments.

While this is a statewide action, we anticipate that communities near covered facilities or rail corridors may be impacted by potential changes to statutory decarbonization timelines and reductions in criteria air pollutant emissions. Rule changes also add provisions that encourage EITEs to relocate; this may benefit the communities they locate away from.

To learn more about communities that may be impacted by linkage specifically, please refer to the linkage Environmental Justice Assessment.³¹

²⁹ Washington State Legislature. "Chapter 173-446 WAC, Climate Commitment Act Program Rule."

<https://app.leg.wa.gov/wac/default.aspx?cite=173-446>.

³⁰ Washington State Legislature. "Chapter 173-441 WAC, Reporting of Emissions of Greenhouse Gases."

<https://app.leg.wa.gov/WAC/default.aspx?cite=173-441>.

³¹ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market: An Environmental Justice Assessment.

<https://apps.ecology.wa.gov/publications/documents/2614019.pdf>

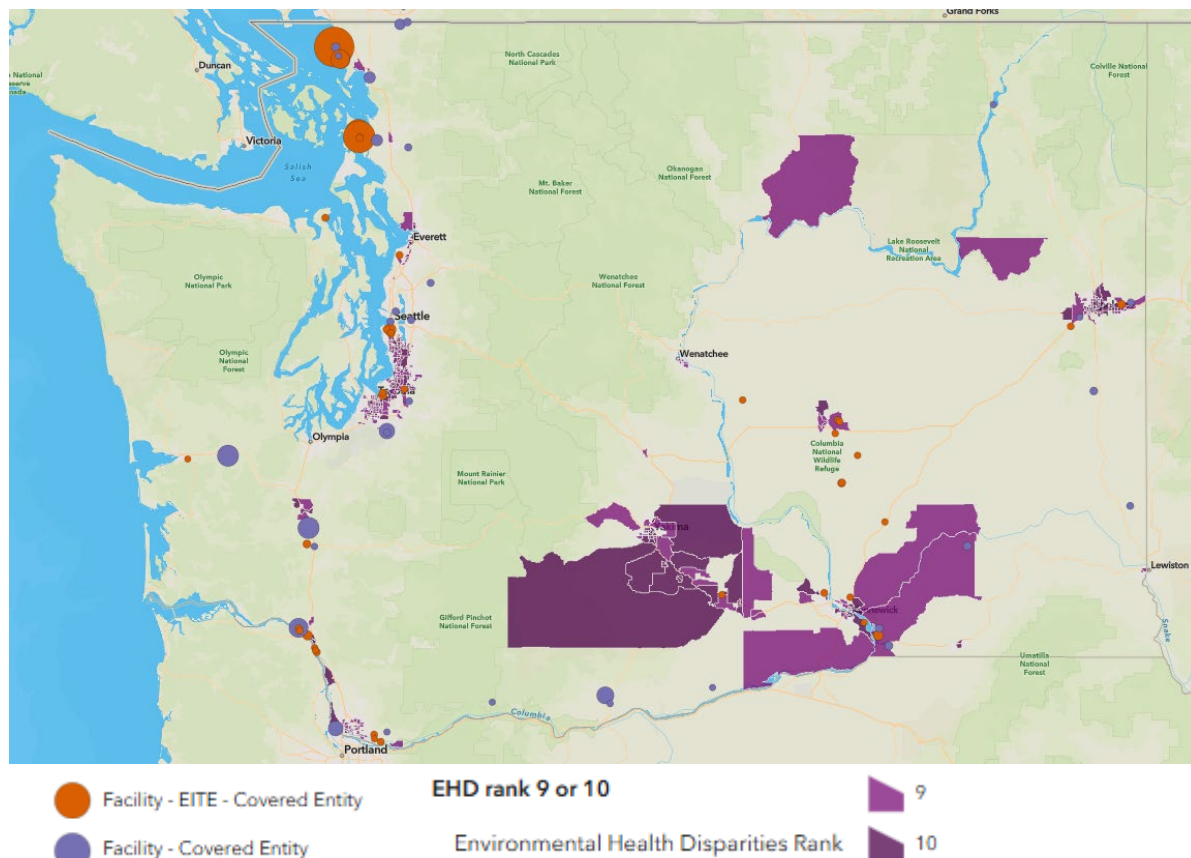


Figure 1: Map showing locations of facilities covered by the Cap-and-Invest Program, including emissions-intensive, trade-exposed industries (EITEs) and the overlap with Environmental Health Disparities ranks 9 and 10.

2. When applicable, using the [Washington State Department of Health’s Environmental Health Disparities Map \(EHD Map\)](#), identify the EHD Map rankings for all census tracts likely to be impacted by the action.

This action has statewide impacts; thus, communities or individuals in any census tract could be impacted by the rule amendments. As mentioned in Question 1 above, we anticipate potential impacts to communities near covered facilities, including EITE facilities and rail corridors. In particular, we’ve identified communities within three miles of an EITE facility that rank 9 or 10 on the EHD map, as they experience the greatest environmental health disparities and cumulative health impacts (Figure 1). Due to data limitations, we did not look at the EHD ranks of census tracts near rail corridors or other covered facilities.³²

³² Three miles is based on a statistic that residents within 5 km of point source emissions experience elevated health risks. Source: Assessing health risks and socioeconomic disparities associated with ambient air pollution and point sources across the United States, <https://www.sciencedirect.com/science/article/pii/S0269749125006840>.

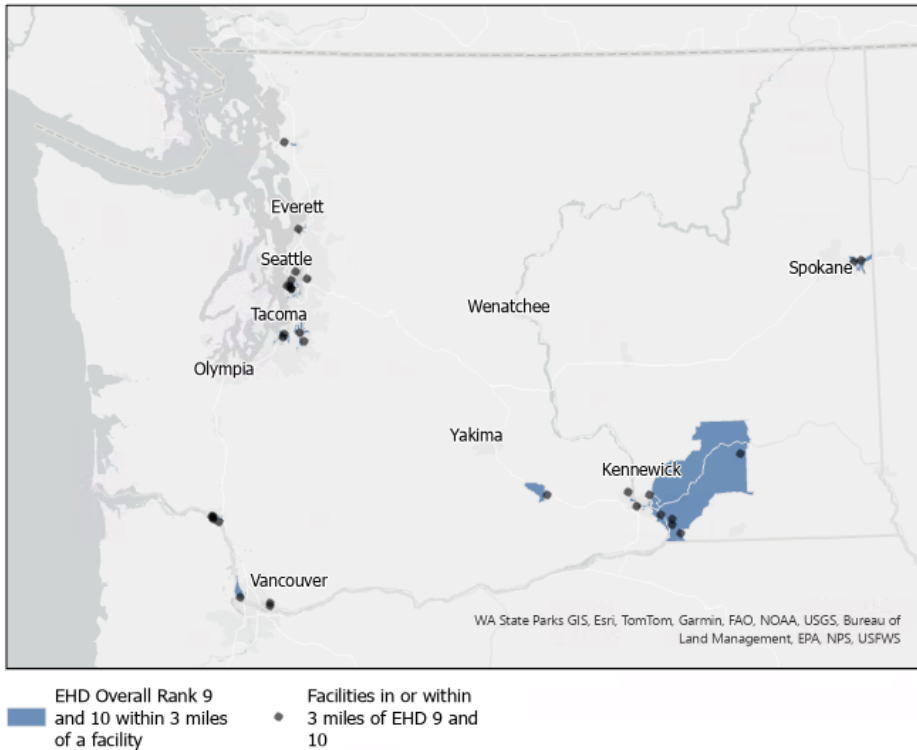


Figure 2: Map showing census tracts with an Environmental Health Disparity (EHD) overall rank 9 and 10 that have a facility covered by the Cap-and-Invest Program located in or within three miles of it.

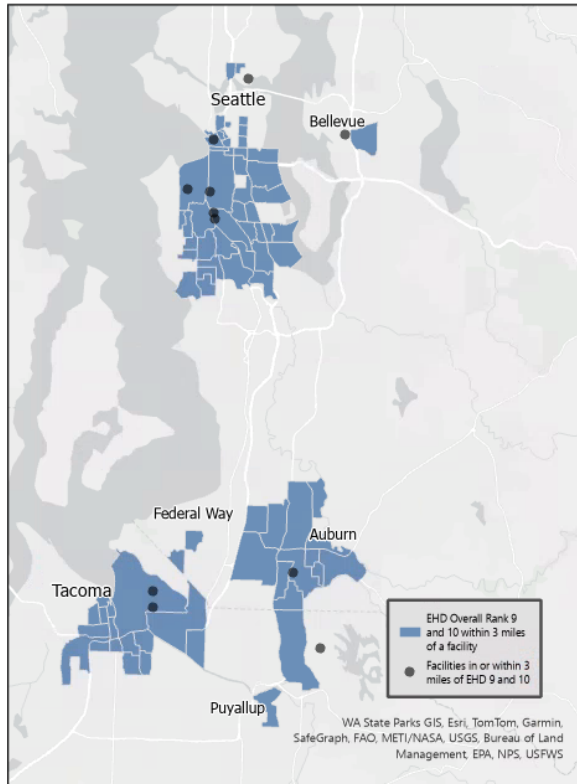


Figure 3: Close up map of the Tacoma/Seattle region showing census tracts with an EHD overall rank 9 and 10 that have a facility covered by the Cap-and-Invest Program located in or within three miles of it.

3. From the rankings identified in question 2, are there any census tracts ranked 9 and 10?

☒ Yes – See description above

☐ No

4. Please describe additional cumulative health considerations relevant to this action.

The adopted rule amendments aim to align with statute, improve implementation of the Cap-and-Invest Program, and support achievement of Washington’s greenhouse gas emissions limits. Reducing greenhouse gas emissions can help mitigate the impacts of climate change and associated cumulative health impacts, including those related to extreme heat, wildfire smoke, and other climate-related events.

Some entities covered by the Cap-and-Invest Program emit both greenhouse gases and other air pollutants, including criteria air pollutants and hazardous air pollutants. Greenhouse gases and these co-pollutants can originate from the same activities, particularly the combustion of fossil fuels. As a result, actions that reduce fossil fuel use or otherwise reduce greenhouse gas emissions may also reduce co-pollutant emissions, potentially providing local air quality and health benefits. However, the relationship between greenhouse gas emissions reduction and other air pollutant emissions reduction varies by facility, pollutant source, and the type of emissions-reduction action taken. Therefore, changes in greenhouse gas emissions do not necessarily result in corresponding changes in local air pollution or community exposure.

5. Identify areas likely to be impacted by the action that are at or above the 80th percentile (in state) for the “People of color” and “Low income” socioeconomic indicators. You can do this by looking at the EHD map rankings for these individual indicators (rank 9 or higher roughly approximates those census tracts at or above the 80th percentile), and/or by downloading the appropriate data on these indicators from the Washington Tracking Network or the Census Bureau’s American Community Survey 5-year estimates and running additional analysis to determine percentiles.

This action is statewide, with potential but minimal impacts on communities near covered facilities, as identified above.

6. Using the EHD map and/or data from Washington Tracking Network, identify any other indicators pertaining to socioeconomic characteristics, health disparities, and/or climate and environmental impacts at or above the 80th percentile (in state) that are relevant to this action.

No indicators were identified as relevant to this action.

7. Identify additional overburdened communities and vulnerable populations that are likely to be affected by the action.

No additional overburdened communities and vulnerable populations were identified.

8. Through community engagement, were additional overburdened communities and vulnerable populations identified who are likely to be affected by the action? Describe additional communities or populations identified, and the reasons they would be considered overburdened and vulnerable.

No additional communities or populations were identified.

9. Through Tribal Consultation, were additional overburdened communities and vulnerable populations identified who are likely to be affected by the action? Describe additional communities or populations identified, and the reasons they would be considered overburdened and vulnerable.

No additional communities or populations were identified.

Section 7: Summary of Community Engagement

This section summarizes community engagement activities. Community Engagement should be tailored to specifically reach overburdened communities and vulnerable populations.

Community engagement is required for all significant agency actions, but the engagement methods will vary depending on the size, scope, and topic of the project. The level, type, and form of engagement is based on the likelihood that the actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population.

Summarizing Community Engagement

1. Describe the engagement activities with identified overburdened communities and vulnerable populations.

Ecology conducted community engagement from July 2024 to August 2026. Throughout this time, we used several strategies to engage with the public statewide, including:

- Creation and maintenance of a dedicated rulemaking webpage – <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-cap-and-invest-program-updates-and-linkage>
- Online informational public meetings, community forums, and public hearings.
- Email announcements.³³
- Emails and phone calls to organizations – including information about the rulemaking, invitations to attend upcoming public meetings, environmental justice listening sessions, or community forums, meet with Ecology individually, or have Ecology present at one of their already scheduled meetings.
- Public comment periods.

In addition to public meetings and hearings, we conducted three community forums specifically to inform vulnerable populations and overburdened communities, community organizations, environmental justice organizations, and other members of the public about the Cap-and-Invest Program generally, the linkage process, and the rule amendments considered in this rulemaking.

Ecology announced the meetings through our email distribution lists for the CCA bulletin and other rulemaking lists. Ecology also forwarded the announcements for the May and August 2025 meetings to the Environmental Justice Offsets working group.

Ecology offered a total of five comment periods for general rulemaking feedback during rule development. The final comment period (from June 1, 2026, to July 22, 2026) provided opportunity to comment on the rule language. We responded to these comments in the Concise Explanatory Statement, available on the rulemaking webpage.³⁴

2. What actions were taken to help address barriers to meaningful engagement?

Ecology conducted an extensive rule development process before adopting the rule. Throughout this process, we held numerous meetings and provided multiple opportunities for feedback and discussion with individuals and communities. Ecology provided opportunities to submit comments in a number of ways including at public meetings and hearings, community forums, via email, or online through our comment submission portal. We also extended comment period deadlines to provide more time for comments.

³³ The CCA Bulletin email list reaches a broad set of interested parties, including Cap-and-Invest market participants, environmental organizations, community-based organizations, Tribal government staff, and media.

³⁴ Washington Department of Ecology. "Cap-and-Invest Program Updates and Linkage rulemaking." <http://ecology.wa.gov/Cap-and-Invest-Program-Updates-and-Linkage-Rule>.

Throughout the process, Ecology invited organizations and individuals to meet with us, when convenient for them, whether by scheduling a time with Ecology, joining a scheduled small group meeting or inviting Ecology to attend one of their existing meetings. Our public meetings and community forums were recorded, and we posted the recordings on the rulemaking webpage. Ecology provided translated notices about this rulemaking in Spanish, Korean, Vietnamese, Ukrainian, Russian, Chinese and French. These translations are also available on the rulemaking webpage.

We also centered accessibility by reviewing all materials shared and presented at public meetings for accessibility, offering interpretive services upon request, and making technical content more understandable to non-technical audiences.

3. Identify overburdened communities or vulnerable populations potentially affected by the action who were not engaged and explain why not.

As with the linkage process, we prioritized engagement with organizations because of our capacity constraints, the statewide and market-based nature of the action, and the technical aspects of the rule changes. As a result, community members likely learned about engagement opportunities either through those organizations or by opting in via distribution lists or comment periods. We recognize that this is a limitation of the approach and acknowledge that some communities may not have been engaged, including those in Cowlitz and Clark County, where we did not identify any organizations to connect with.

4. Summarize recommendations from members of overburdened communities and vulnerable populations to mitigate or eliminate potential harms from the action and/or equitably distribute benefits from the action.

Ecology received a total of 16 comment letters that informed this assessment. Comments specific to linkage, and therefore outside the scope of the rulemaking, are summarized in the linkage Environmental Justice Assessment.³⁵ The comments and concerns are summarized below:

Individuals

Ecology received eight comments from individuals. There were no individuals who self-identified as a member of an overburdened community or vulnerable population. Because we do not ask for this information, we opted to summarize all relevant comments from individuals.

In general, most individuals were supportive of the Cap-and-Invest Program and the rule changes. A few commentors mentioned that any rule changes should ensure communities, especially overburdened communities and Tribes, benefit from the program. Some commented on the program's framework which is outside the scope of this rulemaking.

³⁵ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market: An Environmental Justice Assessment.
<https://apps.ecology.wa.gov/publications/documents/2614019.pdf>

Community-based organizations

Ecology received three comments from community-based organizations. The organizations requested Ecology maintain its commitment to the Healthy Environment for All (HEAL) Act and the environmental justice provisions of the CCA. One organization asked Ecology to explain how it will assess and address the effects that aligning market rules across jurisdictions could have on overburdened communities, particularly rules related to offset projects. The organization also requested that Ecology provide greater transparency concerning livestock and manure-management offset credits held or used for Washington compliance. Another commenter asked Ecology to offer opportunities for local input, emphasizing the need for rural voices, environmental groups, and local residents to remain part of the conversation.

Environmental organizations

Ecology received five comments from environmental organizations that mentioned impacts to overburdened communities and environmental justice impacts. In general, they asked Ecology to continue preserving, upholding, and strengthening environmental justice provisions for overburdened communities.

Comments specific to linkage are addressed separately in the linkage Environmental Justice Assessment.³⁶ Commenters asked Ecology to prioritize meaningful engagement with communities overburdened by pollution and work to address the concerns of environmental justice advocates. One commenter also asked Ecology to emphasize its progress on its rulemaking on Air Quality in Overburdened Communities, which is also outside of the scope of this rulemaking and is being implemented through a separate initiative.³⁷

5. Describe any plans for ongoing engagement with overburdened communities and vulnerable populations related to this action.

Ecology does not currently have plans for ongoing engagement with overburdened communities and vulnerable populations related to this action. Community members are encouraged to contact Ecology at CCAQuestions@ecy.wa.gov with any questions or concerns or to set up a meeting to discuss the program in general in more detail.

³⁶ Washington Department of Ecology. 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market: An Environmental Justice Assessment.

<https://apps.ecology.wa.gov/publications/documents/2614019.pdf>.

³⁷ Washington Department of Ecology. "Chapter 173-448 WAC – Air Quality in Overburdened Communities."

<https://ecology.wa.gov/wac-173-448>.

Section 8: Potential Environmental Benefits & Harms

Identify Potential Environmental Benefits & Harms from Action

1. Describe the anticipated benefits (direct and/or indirect) from this action.

Washington's Cap-and-Invest Program is an environmental policy where businesses choose their most cost-effective compliance strategies – a combination of using allowances and reducing their greenhouse gas emissions. As a result, Ecology cannot predict the exact outcome of the rule changes.

Overall, the adopted rule changes are expected to improve program implementation, support program efficiency and stability by reducing businesses' administrative costs and strengthen decarbonization incentives. Many changes in this rulemaking are necessary to align the rule with statute.³⁸ Some changes are administrative to provide clarity and are not expected to impact communities.

While some rule amendments help facilitate linkage by aligning certain aspects of Washington's carbon market with carbon markets in California and Québec, the rule amendments in themselves do not link the carbon markets. The potential impacts of linkage are in a separate Environmental Justice Assessment.³⁹ We anticipate benefits from the following categories of rule changes:

House Bill 1975

House Bill 1975 (2025)⁴⁰ related changes are intended to improve the stability and predictability of the Cap-and-Invest market. The rule aligns with the statute by expanding the total availability of allowances to reflect achieving the 2030, 2040 and 2050 greenhouse gas limits by December of those years (12 months later than the prior rule). More allowances may also increase auction revenue, potentially expanding CCA investments in overburdened communities.

House Bill 1975 also required Ecology to place allowances from the 2030 budgets into the Allowance Price Containment Reserve (APCR). Ecology exercised discretion to place a greater number of allowances than the minimum required. While these allowances are available earlier, they are available at a higher price so may have the effect of accelerating decarbonization starting in the 2030s.⁴¹

House Bill 1975's increased allowance availability and price stability may provide economic benefits by creating more certainty for long-term greenhouse gas reduction strategies by covered entities. These greenhouse gas reductions may reduce compliance costs. Reduced compliance costs could result in savings being passed on to Washingtonians.⁴² However, Ecology

³⁸ This includes changes to the RCW 70A.65 including changes necessitated by SB 6058, HB 1975, HB 2416 and HB 1912

³⁹ Washington Department of Ecology. June 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market Environmental Justice Assessment. <https://apps.ecology.wa.gov/publications/documents/2614019.pdf>.

⁴⁰ Washington State Legislature. "SB 6058 - 2023-24." <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6058-S2.SL.pdf?q=20260803111552>.

⁴¹ Washington Department of Ecology. *Details related to planned implementation of House Bill 1975 (2025) Update*. <https://apps.ecology.wa.gov/publications/documents/2614035.pdf>.

cannot predict whether or to what extent individual businesses will pass changes in compliance costs on to consumers.

Natural gas utilities

Ecology increased the number of no-cost allowances for natural gas utilities to be consistent with updated allowance budgets in House Bill 1975. This will reduce the cost burden on Washington natural gas ratepayers, including low-income households.⁴²

Electric Utilities and Imported electricity

Ecology made changes to allowance allocation to electric utilities, which is expected to expand revenue returned to ratepayers. Overall, this may reduce the cost burden on Washington electric utility customers.

The rule changes registration requirements to make it easier for a Federal Power Marketing Administration to voluntarily join the Cap-and-Invest Program.⁴³ This could reduce the administrative costs of the Cap-and-Invest Program for small public electric utilities who are customers of the Federal Power Marketing Administration, and result in cost savings to benefit their electric utility customers.

Ecology made updates to minimize administrative burden for imported electricity reporters. The resulting administrative cost reductions could result in cost reductions passed along to utility ratepayers.

Compliance periods

The rule changes the compliance period from four-year periods to a combination of two and three-year periods.⁴⁴ This is a requirement for linkage that makes allowance trading prices more stable – leading to reduced price fluctuation. To the extent covered entities pass on the cost savings resulting from greater market liquidity to their customers, this may result in cost savings for Washingtonians.

New sectors covered by the Cap-and-Invest Program

The updated rule language states that waste-to-energy facilities will become covered entities beginning on January 1, 2027 and implements statutory direction to provide no-cost allowance allocation to waste-to-energy facilities. Some of the no-cost allowance allocation must be directed towards subsequent investments to reduce greenhouse gas emissions and co-pollutants. Communities located near the Spokane waste-to-energy facility, including overburdened communities that have historically experienced higher exposure to air pollution,

⁴² No-cost allowances are greenhouse gas emission allowances that Ecology allocates to electric utilities, natural gas utilities, and EITEs (Emissions Intensive Trade Exposed Industries) without requiring them to purchase the allowances. Each allowance authorizes the emission of one metric ton of carbon dioxide equivalent (CO_{2e}) and may be used to comply with the Cap-and-Invest program. Receiving no-cost allowances may reduce the incentive for covered entities to decarbonize.

⁴³ This would be Bonneville Power Administration for this rulemaking (BPA).

⁴⁴ This would change if Washington links with the California-Québec carbon market.

would benefit from this rule requirement.⁴⁵ In Washington, waste-to-energy facilities are also subject to air quality permitting to address criteria air pollutants arising from facility operation.

In addition, the rule has new language that states that railroad companies will become covered entities in the third compliance period and will be covered two years sooner due to the rule changes to the compliance period lengths.⁴⁶ Earlier participation creates an incentive for railroad companies to implement emissions reduction strategies sooner, which may include improvements in fuel efficiency or other lower emissions technologies.

Emissions-intensive, trade-exposed (EITEs) facilities

The rule amendments create an incentive for businesses to close down older EITE facilities and replace them with new facilities in Washington that are less emissions-intensive by enabling businesses to request the transfer of the allocation baseline from the older facility to the new facility. If this were to occur, then potential benefits may include improved environmental conditions and reduced air pollution for communities near a closed facility and the creation of jobs near the newly opened facility. The amended rule does not directly change the number of no-cost allowances provided to EITEs.

Enforcement

The rule amendments clarify requirements and add an additional layer of accountability for entities that are unable to fulfill the greenhouse gas emissions compliance obligations. This helps ensure that covered and opt-in entities meet the requirements of the Cap-and-Invest Program. Consistent enforcement supports the integrity and effective implementation of the program.

2. Who will primarily benefit from this action?

Since the rule makes improvements to the implementation of the Cap-and-Invest Program, which is a state-wide program, all Washington residents will benefit from this rulemaking. Economic benefits of price stability and predictable compliance costs discussed above primarily benefit market participants, with potential secondary cost benefits to communities.

3. How is the action expected to benefit specifically overburdened communities or vulnerable populations? If there is no benefit, identify potential barriers to benefitting from the action.

Potential indirect benefits to overburdened communities and vulnerable populations include:

- Improved stability, additional allowances, and bringing railroad companies into the program sooner may benefit auction revenues. At least 35% of these revenues are required to go toward projects that provide direct and meaningful benefits to vulnerable populations and overburdened communities. By strengthening program participation, this rulemaking may benefit investments in these communities.
- Improved stability and reduced-price volatility within the program are expected to support decarbonization by covered entities and reductions of greenhouse gas emissions. Assuming that the same strategies to reduce greenhouse gases also reduce

⁴⁵ There is currently only one waste-to-energy facility in Washington, located near Spokane.

⁴⁶ The railroads would be covered sooner when the Washington market links with Québec and California.

co-pollutants, communities located near covered entities may benefit from air quality improvements.

- More no-cost allocation to natural gas and electric utilities potentially lowers the cost to the Washington utility ratepayers, benefiting lower-income households who spend a larger share of their income on energy bills.
- Participation of sectors such as the waste-to-energy facilities and railroad companies in the Cap-and-Invest Program may encourage investment in greenhouse gas emissions reduction strategies. Both greenhouse gases and co-pollutants can be produced by the same underlying activity. Although the rule does not require entity-specific emission reductions, these incentives may contribute to reductions in greenhouse gas emissions and associated co-pollutants over time, benefiting communities located near those facilities.
- Overburdened communities located near rail corridors have historically experienced disproportionate exposure to air pollution⁴⁷ and could benefit if earlier participation in the program accelerates greenhouse gas emissions reductions and associated improvements in air quality.

4. Describe anticipated harms (direct and/or indirect) from this action.

The rule amendments primarily modify implementation of the existing Cap-and-Invest Program rather than creating new compliance obligations for most covered entities. As a result, the amendments are not expected to result in substantial new direct environmental harms beyond those already associated with the existing program.

The Cap-and-Invest Program allows covered entities flexibility in how they comply. Each facility chooses how much to reduce its emissions or purchase compliance instruments. Entities have multiple compliance pathways. Therefore, Ecology cannot predict whether any individual facility will reduce greenhouse gas emissions or purchase allowances.

We anticipate the following potential harms from the rule changes:

- Possible loss of jobs in a community if a nearby EITE facility closes and opens a new facility. The amended rule creates an incentive for businesses to close older EITE facilities and replaces them with new facilities in Washington that are less emissions-intensive by enabling businesses to request the transfer of the allocation baseline from the older facility to the new facility.
- Potential new source of air pollution if an EITE facility closes and opens a facility in a new location. However, the new facility will still need to comply with their air quality permit, and this rule encourages facility owners to mitigate their emissions impacts on the community where the new facility is located.

⁴⁷ Washington Department of Ecology. 2023. 2023 Report: Overburdened Communities Highly Impacted by Air Pollution. <https://apps.ecology.wa.gov/publications/SummaryPages/2302115.html> and Washington Department of Ecology. 2025. 2025 Report: Overburdened Communities Highly Impacted by Air Pollution. <https://apps.ecology.wa.gov/publications/SummaryPages/2502037.html>.

- Increased costs of electricity, transportation, or other goods and services as a result of rule changes that add new covered entities to the Cap-and-Invest Program and potential increased administrative costs for currently covered and opt-in entities.

Ecology is updating its rule language to match House Bill 1975, which changes allowance budgets. Instead of allowance budgets achieving greenhouse gas limits at the beginning of each year, the allowance budgets must now match the state's greenhouse gas limits by the end of each year. For example, allowance budgets must align with the 2030 emissions limit in December 2030 instead of January 2030.

Because the annual limit on statewide greenhouse gas emissions will align with limits at the end of the year instead of the beginning, each step down in the statewide greenhouse gas emissions cap happens later. That means the cap declines more slowly, and emission reductions would also happen more slowly than they otherwise would have. This could result in slower reductions in criteria air pollutant emissions in communities near facilities, because both greenhouse gases and air pollutants are released when fossil fuels are combusted (combustion is the main source of Washington's facility-level greenhouse gas emissions).⁴⁸ However, it is important to note that the relationship between greenhouse gas emissions and air pollutants depends on many factors.

The exact location and magnitude of any potential air quality impacts are uncertain because covered entities determine how and where to reduce emissions to meet their compliance obligations and because of the uncertain relationship between greenhouse gas and air pollutant emissions as discussed in the prior paragraph.

5. Who will primarily experience the harms?

Since the rule makes improvements to the implementation of the Cap-and-Invest Program, which is a statewide program, potential harms could affect all Washington state residents.

The potential harms of potential delays in decarbonization resulting from an expanded number of allowances under House Bill 1975 (2025) due to potential associated impacts to air pollution, and decreased investment in offset projects in Washington could impact communities. Because the Cap-and-Invest Program is a market-based program where businesses choose their most cost-effective compliance strategies, the potential impacts to specific geographic locations are uncertain.

6. Describe how the action may harm overburdened communities or vulnerable populations?

It is possible that overburdened communities and vulnerable populations could be impacted by loss of jobs in a community if a nearby EITE facility closes. Additionally, communities near a reopened EITE facility in a new location could be impacted by new sources of air pollution. Low-income rate payers could be adversely impacted by increased costs of electricity, transportation, or other goods and services as a result of rule changes that add new covered entities to the Cap-and-Invest Program and potentially increase administrative costs for currently covered and opt-in entities.

⁴⁸ Over 80% of Washington's facility-level greenhouse gas emissions are attributed to combustion.

7. Describe how the action would address environmental and health disparities.

The rule amendments support the continued implementation of Washington’s Cap-and-Invest Program, which establishes a declining cap on greenhouse gas emissions. Greenhouse gases and co-pollutants can be emitted from the same activities, particularly fossil fuel combustion. Where actions taken by covered entities to reduce greenhouse gas emissions also reduce co-pollutants, communities near facilities, which often have historically experienced disproportionate exposure to air pollution, may experience associated air quality and health benefits.

While this rulemaking primarily makes technical and programmatic updates, it supports the continued implementation of the Cap-and-Invest Program, which generates revenue for investments identified through the Climate Commitment Act. Program revenues are directed towards projects such as clean transportation, energy efficiency, clean energy, climate resilience, and other initiatives that provide environmental and public health benefits, including benefits for overburdened communities and vulnerable populations.

Section 9: Options to Eliminate, Reduce, or Mitigate Harms and Equitably Distribute Benefits

This section summarizes options identified for eliminating, reducing, or mitigating harms, as well as options for equitably distributing anticipated benefits. The answers in this section should be informed by engagement, answers from the previous subsections, and any legislative or regulatory boundaries that limit possible decision making.

Identify Options to Eliminate, Reduce, or Mitigate Harms & Equitably Distribute Benefits

1. Describe options to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations; and options to equitably distribute the benefits.

This section summarizes recommendations Ecology received related to mitigating harms and equitably distributing benefits of the rule from Tribes, individuals, and community-based organizations since 2024.⁴⁹ Recommendations related to linkage are summarized in the Linkage Environmental Justice Assessment.⁵⁰

⁴⁹ The recommendations are based on comments received since the original Linkage rulemaking in April 2024. We later expanded the scope of the rulemaking to include statutory changes and necessary updates in March 2025 and continued the rulemaking with expanded scope.

⁵⁰ Washington Department of Ecology. June 2026. Potential linkage of Cap-and-Invest carbon market with the joint California-Québec carbon market Environmental Justice Assessment. <https://apps.ecology.wa.gov/publications/documents/2614019.pdf>.

- I. **Offer detailed opportunities for local input and ensure that equity and environmental justice remain central.** Ecology conducted a series of public meetings, community forums and comment periods to ensure opportunities for input and questions. Input received informed the final rule text and planned rule implementation. Ecology will continue its efforts for public outreach during the implementation of this rule and in preparation of future rulemakings.
- II. **Ensure that overburdened communities, vulnerable populations, and Tribes equitably benefit from the Cap-and-Invest Program.** The rule maintains the environmental justice provisions and statutory requirements established by the CCA and does not change the statutory requirements governing investments that benefit vulnerable populations and Tribes. Ecology considered the potential cost and benefits of the rule, including potential cost savings associated with improved market stability. Decisions about the appropriation and distribution of Cap-and-Invest proceeds are made by the Legislature and are outside the scope of this rulemaking.
- III. **Activate the Emissions Containment Reserve (ECR) trigger price to prevent "regulatory backsliding" by automatically adjusting allowance supply when prices fall below a certain level.** Ecology did not implement this recommendation.⁵¹ Through discussions with California and Québec, Ecology determined that an ECR trigger price is a policy that needs to be aligned across jurisdictions. Because California and Québec do not have an ECR trigger price, Ecology has not set an ECR trigger price for Washington.

Even without a trigger price, however, the Cap-and-Invest Program uses the ECR and other program features including a floor price an APCR and a price ceiling to ensure a steadily increasing allowance price and consistent decarbonization of covered entities.
- IV. **Maintain the policy in Washington to reduce the allowance budget by the number of offset credits used for compliance the previous year (referred to as offset credits being "under the cap"). Keep offsets under the cap and continue strengthening Washington's offset protocols.** This recommendation will be met because this provision is in statute. Offsets will continue to remain under the cap as required by statute.
- V. **Maintain Washington's requirement for offset projects to provide direct environmental benefits to Washington.** The requirements related to direct environmental benefits for offset credits are set in statute and those requirements will be maintained in a linked market, unless changed by the Legislature.⁵² To maximize an entity's offset use in the Cap-and-Invest Program, the entity must source a portion of their offset credits from offset projects on Tribal lands. Through this rulemaking, Ecology added language requiring that an entity's offset credits from projects on Tribal lands must also provide direct environmental benefits to Washington.

⁵¹ The Emissions Containment Reserve is explained on the reserve accounts webpage. <https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/reserve-accounts>.

⁵² RCW 70A.65.170

- VI. **Continue providing funding and other support that enables Tribes to meaningfully participate in the Cap-and-Invest Program.** Grant funding is appropriated by the Legislature every biennium from CCA accounts. Even as auction revenues have fluctuated, funding for these grants has remained consistent or increased biennium to biennium. Ecology currently provides Tribal Climate Capacity Grants to support Tribes' participation in and engagement with the Cap-and-Invest Program. These grants support activities such as consulting with agencies that allocate funding or administer grants with CCA funds on funding decisions and funding programs that may impact Tribal resources, and consulting on clean energy siting studies and siting decisions.
- Ecology will continue to evaluate opportunities to support Tribal participation through existing program resources. Broader funding decisions, including funding for environmental and habitat restoration and other investments of Cap-and-Invest proceeds are made through the State Legislature.
- VII. **Ensure statutory investment requirements are met, including minimum funding levels for overburdened communities and Tribes.** Funding decisions are made by the Legislature through the state budget appropriations process. Ecology does not have authority to decide how auction revenue is spent or increase the proportion of the revenue that is required to benefit overburdened communities and vulnerable populations.
- VIII. **Expand the Improving Air Pollution in Overburdened Communities grant program to support community-led solutions to air pollution impacts.** Funding decisions are made by the Legislature through the state budget appropriations process. Ecology does not have authority to decide how auction revenue is spent or increase the proportion of the revenue dedicated to the Improving Air Pollution in Overburdened Communities grant program.
- IX. **Ensure meaningful engagement with overburdened communities, clearly articulate how Ecology will use regulatory tools to improve air quality, and prevent increased health disparities.** Ecology considered and implemented this recommendation in engaging with overburdened communities through community forums, public meetings, public comment periods and by using other accessibility tools. Through a separate initiative, Ecology is also implementing the Improving Air Quality in Overburdened Communities initiative.⁵³ This initiative was created to characterize and track air quality in overburdened communities over time, determine the sources of air pollution, establish air quality targets, and adopt strategies to reduce air pollution in and with those communities and Tribes.
- Ecology is in the process of creating a new rule to improve air quality in overburdened communities.⁵⁴ This work is anticipated to help prevent increased health disparities.

⁵³ Washington Department of Ecology. "Improving air quality in overburdened communities." <https://ecology.wa.gov/cleanair>.

⁵⁴ Washington Department of Ecology. "Chapter 173-448 WAC – Air Quality in Overburdened Communities." [WAC 173-448 - Washington State Department of Ecology](https://www.wac.gov/wac/173-448).

2. Describe methods chosen for this action to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations; and methods chosen to equitably distribute the benefits. You must consider the following methods, but are not limited to them:

This section includes considerations incorporated by Ecology to identify opportunities to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations.

From the recommendations detailed in Question 1 above, Ecology chose to:

- Provide equitable participation and meaningful engagement of vulnerable populations and overburdened communities in the development of the significant agency action by offering many opportunities for local input and ensuring that equity and environmental justice remained central in rulemaking decisions.
- Ensure meaningful engagement with overburdened communities.
- Clearly articulate how Ecology will use regulatory tools to improve air quality and prevent increased health disparities.

In addition to the recommendations in Question 1, to reduce, mitigate, or eliminate the identified probable harms to overburdened communities and vulnerable populations, Ecology chose to:

- Ensure that some portion of no-cost allowances for electric utilities will be dedicated towards creating revenue for ratepayers. This revenue will reduce risks of rate increases for customers (with priority given to low-income customers) and allowing utilities to create rebate programs for ratepayers.
- Allow an EITE facility to retain its baseline emissions intensity used to calculate no-cost allowance allocation if relocating its operations to a new facility. This will encourage facility owners to mitigate their emissions impacts in the community where the new facility is located.
- Exercise discretion under House Bill 1975 to pull a greater number of allowances out of the general market and make them available through a special pool of allowances at a moderately high price. While this may reduce extremely high allowance prices in the late 2020s, it reduces the chance of very low carbon prices in the 2030s and 2040s. This may accelerate decarbonization by entities covered by the Cap-and-Invest program, which may result in associated reductions in harmful co-pollutants for overburdened communities and vulnerable populations impacted by those covered entities.
- Implement many market changes that increase efficiencies and result in cost savings to Cap-and-Invest market participants. These cost savings may be passed on to Washington residents, including those in overburdened communities and vulnerable populations.
- Amend requirements of annual greenhouse gas reporting by reducing the chance that extremely small errors in historical reporting would require revisions. Ecology made

these amendments with the intention of reducing costs for reporters, which may reduce costs passed along to the communities and customers the reporters serve.

Outside of this rulemaking, Ecology will also continue to:

- Conduct outreach and provide opportunities for meaningful engagement by Tribes, overburdened communities, and vulnerable populations when implementing the rule changes and developing air pollution reduction strategies, and provide technical assistance to those affected by the rule.
- Monitor air quality and related efforts in overburdened communities through Ecology's Improving Air Quality in Overburdened Communities Initiative, including monitoring air pollution, and reporting on air quality improvements.

Information and comments collected during this rulemaking process also continue to inform future program developments. Ecology is currently developing reports on EITE allocation and allowance market modeling. In future rulemakings, Ecology will continue to consider and implement Cap-and-Invest changes that deliver improvements to Washington residents, including those in overburdened communities and vulnerable populations. More broadly, implementation of the rule directly generates CCA revenue, which can be used toward projects that reduce emissions, support the clean energy transition, and reduce criteria air pollutants and health disparities in overburdened communities highly impacted by air pollution.⁵⁵

3. If the agency determines it does not have the ability or authority to eliminate, reduce, or mitigate environmental harms caused by the action, or address the equitable distribution of environmental benefits, explain why that determination was made.

The CCA sets out the structure of the Cap-and-Invest Program and includes many of the provisions that determine how the program functions, including uses of auction revenues, no-cost allocation to certain types of entities, allowance banking, offsets, and environmental justice provisions. Ecology has limited authority to change the Cap-and-Invest Program through the rulemaking process.

We've noted above in Question 1 when we determined we do not have statutory authority to adopt or implement a recommendation, but we address additional provisions required by statute below:

- **Additional no-cost allocation to natural gas utilities:** Ecology provided additional no-cost allocation to natural gas utilities consistent with updated allowance budgets. These additional allowances will reduce auction revenue available for CCA investments but are required under statute.⁵⁶
- **Potential impacts associated with EITE facility closure and replacement facilities.** The amended rule creates an incentive for businesses to close older EITE facilities and replaces them with new EITE facilities in Washington that emit less greenhouse gas. This incentive was not required under statute. If exercised by EITE facilities, it would result in

⁵⁵ RCW 70A.65.240 through 70A.65.280

⁵⁶ RCW 70A.65.130.

potential job losses in communities with an EITE closure, and potential localized air pollution impacts near a replacement EITE facility. Ecology cannot determine whether entities will respond to this incentive, where in Washington a replacement facility will be located, or the technology that will be used. As a result, Ecology cannot fully eliminate these potential harms through this rulemaking.

- **Potential impacts associated with the electricity importer threshold:** The rule lowers the reporting threshold for electricity importers from 10,000 tons of carbon dioxide equivalent to zero, consistent with statute. This may result in minor additional administrative costs that could potentially be passed through to utility customers, including lower-income households. Ecology does not have authority to change the reporting threshold in a manner inconsistent with the statutory requirements.
- **Potential costs to covered entities and households:** Changes affecting covered entities may result in administrative and compliance costs. If those costs are passed down to the customers, they could disproportionately affect lower-income households and other vulnerable populations. Ecology cannot control whether or how regulated entities pass compliance costs to customers.
- **Potential reduction in Allowance Price Containment Reserve (APCR) auction due to Tier Price changes:** Amendments required by House Bill 1975 lowers the price at which some APCR allowances are available for sale. If these allowances are sold, this House Bill 1975 change will decrease auction revenue available for CCA investments.

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