



November 8, 2023

Tamara Jones
Senior Legislative Planner – Climate Pollution Reduction Program
Washington Department of Ecology
300 Desmond Dr SE, Lacey, WA 98503

Re: Climate Solutions’ Comments on Ecology’s Agency Request Legislation to Facilitate Linkage

Dear Tamara Jones,

Climate Solutions appreciates the opportunity to provide comments on the Department of Ecology’s (“the Department”) linkage request legislation and is grateful for the Department’s continued outreach around linkage. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is central to the movement as a catalyst, advocate, and campaign hub.

Linkage with California and Quebec’s joint market has the potential to stabilize prices, strengthen our carbon market, relieve administrative burden, and provide Washington with a unique opportunity to increase all three programs’ stringency and commitment to environmental justice. But in order to facilitate linkage and achieve those benefits, the Department must ensure any linkage agreement meets the linkage criteria laid out in statute (RCW 70a.65.210(3))—namely, ensuring that linkage does not harm our ability to meet our climate mandates, largely through addressing California’s large bank of unused allowances, and ensuring that linkage not only avoids harm to overburdened communities, but also brings benefits to these communities. Proposals that equip Washington to meet these criteria are steps we deem as *necessary* for facilitating linkage between the three jurisdictions.

The proposed changes outlined in Ecology’s request legislation are a combination of administrative and policy changes with the stated intention of facilitating linkage. However, we question whether the majority of these provisions *are* truly necessary for the success of merging markets, rather than simply a vessel for changes to overall CCA policy design. For example, while the amendments to electricity reporting are modeled after California’s, they do not have an impact on the ability of Washington to link with California. Similarly, the proposed amendments to offsets in Washington bear no impact on whether markets can merge—they are simply policy design choices that are intended to expand compliance entities’ opportunities to purchase offsets.

As the Department continues drafting this legislation, we encourage you to limit the scope of this bill to amendments that directly address and facilitate linkage. That being said, we wanted to

offer the following recommendations on certain provisions in the proposed legislation if the Department decides to move forward with the bill as is.

1. Maintain the integrity of Washington’s offset program.

We do not support the Department’s proposed amendment to RCW 0A.65.170(2), which requires that offset credits provide a direct environmental benefit to Washington state or are from offset projects located in a linked jurisdiction. The Department’s amendment would expand offset use to include not just offsets within California and Quebec, but also those deemed as providing “direct environmental benefits” to the state. We have heard concerns that California’s definition of projects that qualify as having “direct environmental benefits” is too broad and believe that Washington’s statute as currently written strikes an important balance of helping businesses contain costs through a larger offset market, while ensuring that the benefits of the offsets stay within the three jurisdictions. Thus if the Department were to pursue this amendment, one could argue that it would hinder Washington’s ability to meet the linkage criterion that requires linkage to “ensure benefits” to overburdened communities, as it would direct benefits away from the three jurisdictions.

We do want to highlight our support for Ecology’s second proposal to allow offsets on tribal lands to count towards the 5 percent of compliance obligation that can be met through offsets. This flexibility would encourage additional investments in these projects, while providing compliance entities with more options for meeting their compliance obligations. But despite supporting this amendment, we do not see it as necessary for linkage with California and Quebec’s markets.

2. Reconsider whether aligning purchasing and holding limits is necessary for linkage and maintain current 10% holding limit.

The Department states that it plans to introduce an amendment to increase covered entities’ purchasing limits from 10 to 25 percent and to remove the 10 percent holding limit on general market participants, as consistency with California and Quebec’s purchase limit is necessary “for linkage to occur.” Here again, we question how either of these changes would impact linkage and ask the Department to provide additional reasoning as to why consistency of purchase and holding limits are required for linkage. In fact, maintaining the 10% purchasing limit may better facilitate linkage than aligning with California’s 25 percent. If Washington pursues linkage, this will expand Washington’s pool of allowances by roughly five-fold, providing compliance entities with more opportunities to purchase allowances and meet their compliance obligation, all while still maintaining the stringency of the cap through the purchasing limit, which helps our state fulfill the criteria around “maintaining the stringency of Washington’s program” necessary for linkage.

Furthermore, we caution against changing the holding limit of general market participants beyond its current 10 percent limit. The original intent of this provision was to ensure that

general market participants who participate in the market but are not covered entities don't artificially inflate allowance prices by minimizing supply. In order to maintain this intent and the stringency of Washington's program, we suggest retaining the 10 percent holding limit. We again do not see this as a necessary policy change for linkage.

3. Consider incorporating provisions that would actively improve air quality outcomes in overburdened communities.

To reiterate, one of the greatest obstacles facing linkage is not only avoiding harm to vulnerable populations and overburdened communities, but actually bringing benefits to these communities in the process. Policy changes that address these concerns are what we view as necessary and key to facilitating linkage. For example, the Department could incorporate a provision into this bill that places pollution limits on certain high-polluting facilities in overburdened communities to ensure that the economy-wide benefits of an expanded market are paired with improvements in local-level air quality. This concept, referred to as facility-level caps, is a policy change supported by both Washington's Environmental Justice Council and California's Environmental Justice Advisory Committee that we think facilitates Washington's ability to link with the California-Quebec market, while also aligning with the requirements of our law.

The Department could also seek to accelerate pollution reduction at emissions-intensive trade exposed industries by *aligning with California's* allocation of allowances to these industrial facilities. This would be in line with many of the current provisions in the bill which are intended to align with California and Quebec.

4. The Department should place significant guardrails on an amendment that would enable changes to the CCA via rule.

Included in the proposals is a provision to enable the Department to make additional changes to the program by rule given that California and Quebec are both reassessing their cap-and-trade programs and may not finalize those changes until after the 2024 session. As currently described in its communications, we are concerned that this provision is too broad. Without significant guardrails on which specific provisions can be modified and to what extent, we do not support the ability to modify the CCA by rule. It is also worth noting that the Department has stated that linkage is likely to occur in 2025, so there will be an opportunity to make any additional, necessary changes in the 2025 session.

As the Department continues to offer public engagement opportunities on linkage and this request legislation, it will be critical to provide additional details and opportunities for feedback on this proposed amendment.



Climate Solutions appreciates the Department's continued outreach and opportunities for comment around linkage. We look forward to continuing to work with the you as it pursues linking with California and Quebec.

Sincerely,

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