



WASHINGTON CONSERVATION ACTION

September 27, 2024

Nikki Harris
Department of Ecology
Climate Pollution Reduction Program
PO BOX 47600
Olympia, WA 98504-7600

Re: Informal Comment for Chapter 173-446-Linkage WAC — Linkage Rulemaking

Dear Nikki Harris:

Thank you for the opportunity to provide comments on Ecology's rulemaking for Chapter 173-446-Linkage WAC. As a statewide organization, Washington Conservation Action works to develop, advocate, and defend policies that ensure environmental progress and justice by centering and amplifying the voices of the most impacted communities. We have worked on carbon pricing for over a decade and are committed to realizing a just and equitable implementation of the Climate Commitment Act.

Based on the July 10, 2024 public meeting hosted by Ecology, it is our understanding that this public comment process is intended to inform linkage agreement negotiations in addition to the proposed changes to Chapter 173-446 WAC and Chapter 173-441 WAC. Our comments highlight topics and approaches we hope to see reflected in that negotiation process. We do not have comments specific to the proposed changes to 173-446 WAC and 173-441 WAC.

The decision whether to pursue linkage will have far-reaching consequences for Washington's cap-and-invest program and our state's ability to achieve its statutory greenhouse gas emissions limits. It may also have profound implications for carbon markets on a national and international scale. We look forward to continued discussions with Ecology and the opportunity to submit comments on a range of issues as linkage negotiations proceed.



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The comments in this letter are focused on the governing of offsets within a linked compliance market and are guided by our commitment to environmental justice. As such, our comments take into consideration the Environmental Justice Council's letter on linkage adopted on October 26, 2023.¹ Many of our comments reflect the need to ground linkage discussions in the precautionary principle, as described in the adopted letter.

Potential adverse EJ impacts and DEBS in linked jurisdictions

The Climate Commitment Act's requirement for offsets projects to provide direct environmental benefits to the state (DEBS) is one of its most important distinguishing characteristics, particularly to mitigate environmental injustice. The CCA intentionally set a more stringent requirement for DEBS than California to achieve program goals and respond to environmental justice concerns. While the current draft rule language for linkage does not include any proposed modifications of DEBS requirements in WAC 173-446-600, it is critical that the Department of Ecology maintain the existing rule's DEBS requirements at a minimum throughout linkage negotiations.

All linked jurisdictions must maintain strong DEBS requirements to mitigate harm, and Washington must ensure that linking with other jurisdictions' carbon markets does not contribute to adverse outcomes for people in those jurisdictions – or elsewhere. We appreciate that Washington's program already makes some effort to encourage DEBS in linked jurisdictions by requiring that all offsets used for compliance in Washington that are not based in Washington must be *located in* linked jurisdictions. Ideally linkage negotiations can encourage linked jurisdictions to adopt similar approaches, thus mitigating the potential impact of Washington's jurisdictional offsets becoming available to entities in linked programs.

Emissions Containment Reserve

We are aligned with our partners at Climate Solutions regarding the need to activate the Emissions Containment Reserve per RCW 70A.65.140 in order to reduce emissions when allowance prices fall. This is a simple strategy already in statute that can help to mitigate

¹ Environmental Justice Council October 26, 2023 Meeting Materials, p. 20
<https://waportal.org/sites/default/files/2024-01/October%2026%2C%202023%20EJ%20Council%20Meeting%20Packet.pdf>





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potential losses in investments that help drawdown emissions and benefit communities due to market shifts from access to the California market under linkage (and also due to prices beginning to level off independently in Washington). If Washington links with the California and Quebec markets, the ECR provides assurance that Washington communities – especially overburdened communities – will benefit from market revenues. We urge Ecology to use this opportunity to reinstate the ECR. We also encourage Ecology to advocate for both California and Quebec to adopt ECRs during linkage negotiations to strengthen the programs and support communities in all three jurisdictions.

Protocols with different requirements for same project type across linked jurisdictions

To maintain the integrity of a linked program, it is important that Ecology analyze the potential consequences of a linked system in which different protocols exist for the same project type.

For example, as the Washington Department of Ecology pursues updates to the U.S. Forests Offsets protocol, we anticipate that Washington's protocol will begin to substantially diverge from California's current forest offset protocol. Washington's version of the protocol will hopefully become more effective because of these updates. In contrast, California's protocol may not be updated until the 2030 expiration of the current version of the California Air Resource Board (ARB)'s program. We are concerned this could incentivize Washington-based carbon projects to pursue projects using California's less rigorous protocol. This is compounded by the fact that California already has lower DEBS requirements – and regulated entities in California can comply with emissions reductions requirements by purchasing more out-of-state offset projects than Washington, including those based in Washington.

Linkage negotiations must compare overlapping offset protocols, analyze potential impacts, and seek consistency whenever possible. Otherwise, divergent protocols will generate additional complexity and undermine Ecology's efforts to enhance offset protocol rigor and the state's commitment to improved environmental justice outcomes in Washington. This dynamic could also emerge outside of a linked market as the California and Washington market run in parallel over time.





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The following are proposed solutions we recommend Ecology explore:

- Conduct analysis of the potential for demand and prices of offset credits to be affected by differences in rigor of two protocols governing the same project type.
- Negotiate with California and Quebec to align divergent protocols governing the same project type, taking into account input from stakeholders in each jurisdiction and environmental justice goals. Alternatively, in a linkage agreement, include a requirement that linked jurisdictions will adopt whichever is the more rigorous of two protocols covering the same type of offsets if and when future protocols are developed separately.

Market factors related to linking offsets

We strongly recommend that Ecology evaluate the impacts on demand for offsets as compliance instruments in preparation for negotiating a linkage agreement with California and Quebec. We encourage Ecology to conduct an analysis of the potential for demand and offset prices to be affected by linking offsets markets, including exploring the following questions:

- Would linkage induce greater use of offsets as compliance instruments in California? In other words, could changes to supply, demand, and pricing of offset credits from Washington entities induce California entities to expand use of offsets for compliance up to California's limit (4% in the current compliance period and 6% in 2026-2030²) in a linked scenario?
 - If offsets remain outside of the cap in California, unlike in Washington, expanding the use of offsets may have impacts for emissions reductions and environmental justice.
 - What are the current prices (observed and projected) for offsets in Washington compared to California?

²<https://ww2.arb.ca.gov/our-work/programs/compliance-offset-program/about#:~:text=Compliance%20entities%20may%20use%20ARB,for%20emissions%20from%202026%2D2030.>





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Once these questions have been addressed, we encourage Ecology and its counterparts in California and Quebec to seek greater consistency across jurisdictions to limit arbitrage and gaming of the market. This could be done by ensuring offsets are below the cap in all three jurisdictions, adoption of a single version of protocols of the same project type, and/or consistent offset limits for regulated entities.

Reporting consistency

Equivalent reporting for linked jurisdictions is necessary for the Department of Ecology to be able to analyze and adjust rules in a linked program. While it is our understanding that Washington joined the Western Climate Initiative, Inc (WCI) in December 2021 and is using WCI's Compliance Instrument Tracking System Service (CITSS), we are not aware of publicly available compliance instrument reports for Washington equivalent to those published for the California-Quebec program. The quarterly CITSS Compliance Instrument Report for California and Quebec published by the ARB³ provides information about the volume of both allowances and offsets in entity and jurisdictional accounts.

If Ecology is tracking equivalent compliance instrument accounts using CITSS, the reports should be made available to the public in addition to or in place of the current quarterly Ecology Offset Issuance Table.⁴ It would be valuable for Ecology to provide a single report for all compliance instruments that reflects when allowances are retired due to offsets being used as compliance instruments. We encourage Ecology to adopt the same quarterly compliance instrument reporting format as the ARB, including showing total, summarized entity and jurisdictional accounts for both allowances and offsets.

Thank you for your consideration of these comments. Washington Conservation Action looks forward to continued participation in linkage conversations and appreciates Ecology's ongoing work.

³ ARB Linked California and Québec Cap-and-Trade Programs Compliance Instrument Report - Aggregated by Type and Account https://ww2.arb.ca.gov/sites/default/files/2024-07/nc-2024_q2_complianceinstrumentreport.pdf

⁴ Ecology Offset Credit Issuance Table
<https://apps.ecology.wa.gov/publications/documents/2314026.pdf>





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Sincerely,

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