



September 27, 2024

Nikki Harris
Environmental Planner
Washington Department of Ecology
300 Desmond Dr SE, Lacey, WA 98503

Re: Cap-and-Invest Linkage Rulemaking and Environmental Justice Assessment Informal Comment Period

Dear Nikki Harris,

Climate Solutions appreciates the opportunity to provide informal comments on the Department of Ecology’s (“Ecology” or “the Department”) cap-and-invest linkage rulemaking. We are grateful for the continued opportunity to engage on the topic of merging markets and appreciate Ecology’s efforts to seek input. 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 influence and improve 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 and ensuring that linkage not only avoids harm to overburdened communities, but also brings benefits to these communities.

This rulemaking opportunity builds directly from E2SSB 6058, which aims to facilitate linkage through technical changes that support alignment with California and Quebec’s cap-and-invest programs. Overall, we do not have significant concerns with the changes being proposed in this current draft rule. However, we want to encourage Ecology to use this rulemaking as an opportunity to ensure that the state meets RCW 70a.65.210(3) and consider additional mechanisms that will safeguard the integrity of Washington’s program and bolster environmental justice, such as through instating the Emissions Containment Reserve per RCW 70a.65.140

As indicated by Ecology’s materials, this informal public comment is also an opportunity to inform the environmental justice assessments related both to the rulemaking and actual linking of Washington’s carbon market to California-Quebec’s market. To this end, we urge Ecology to uphold existing protections in statute and to strengthen those protections for overburdened communities.

I. Activate the Emissions Containment Reserve and Establish a Trigger Price.

The Legislature created an Emissions Containment Reserve (“ECR”) per RCW 70A.65.140 to “help ensure that the price of allowances remains sufficient to incentivize reductions in greenhouse gas emissions.” Effectively working as a foil to the allowance price containment reserve, the Legislature intended for the ECR to be a simple but effective mechanism for maintaining the ability of the program to carry out its intended goal to reduce emissions when allowance prices fall and the market signal to reduce emissions weakens. One of the leading concerns with linkage is that California’s large bank of allowances will flood the market and bring prices down and result in fewer investments that help drawdown emissions, reduce air pollution, and benefit communities. Establishing the ECR is one of the simplest responses to this concern, as it will remove allowances from the pool—and it is a mechanism that is *already in statute*.

In its [concise explanatory statement during the 2022 Climate Commitment Act rulemaking](#) process, Ecology stated that the reason the Department did not instate the ECR trigger price is because allowance prices will rise faster than the auction floor price based on modeling, and thus an ECR is not needed. Should the situation change, “Ecology will...explore the possibility of reinstating the ECR trigger price.” As expected, prices have now leveled off after the first year, with allowances settling at \$29.88 at the most recent auction—nearly half the average price of the first year of the program and nearing the price floor of \$24.02. These prices still bring in hundreds of millions of dollars for state climate investments. But if the three jurisdictions link, Washington communities will need additional assurance that revenues will continue to flow to them—particularly for overburdened communities. Thus, given that allowance prices have fallen, we urge Ecology to use this opportunity to reinstate the ECR.

This mechanism would be most effective if both California and Quebec’s programs also had ECRs. We recognize that Ecology does not have any jurisdiction over the California-Quebec joint market. However, we encourage Ecology to use the official negotiation process with these two jurisdictions as an opportunity for dialogue around mechanisms such as the ECR that will strengthen all programs and help reduce emissions to meet our respective targets while investing in communities.

II. Implement, uphold, and bolster the environmental justice provisions and programs of the CCA alongside Ecology’s pursuit of linkage through holding the state accountable to investment requirements, prioritizing improvement of criteria air pollution in overburdened communities, and maintaining the integrity of offsets.

Investments: As Washington continues to pursue linkage, it is critical that, at a minimum, Ecology implements, upholds, and bolsters the environmental justice provisions already in statute to protect and provide benefits to overburdened communities in Washington. This includes ensuring that the Legislature and the agencies administering CCA funds meet the 35 percent (40 percent goal) and 10 percent investment minimums that must directly benefit overburdened communities and Tribes, respectively. Although the CCA Funds Rulemaking is now complete, we urge Ecology to be thorough in its assessment of funds, to offer mid-year



reporting, and to track not just greenhouse gas emissions, but also air quality impacts for all investments.

Criteria Air Pollution Rulemaking: Ecology should prioritize initiating the rulemaking process required under RCW 70a.65.020(2) to reduce criteria pollution from highly polluting sources in overburdened communities. This portion of the law is fundamental to the success of the CCA and becomes even more critical under a linked system, as it was designed to ensure that Washington communities will not only see statewide greenhouse gas reductions, but also localized pollution reduction within areas where vulnerable populations reside.

Air Quality Grant Program: We also encourage Ecology to work to expand its improving air pollution in overburdened communities grant program to support community-led solutions to air pollution impacts. We recognize that the Legislature ultimately determines funding levels. However, this grant program serves as yet another tool for improving air quality, and if the Department decides to pursue linkage, it should not only advocate for the extension of this program but also for the expansion of this program—both in funding amount and staffing.

Offsets: Lastly, we applaud Ecology for maintaining the integrity of Washington’s offset provisions through this rulemaking and negotiation process by ensuring that offsets remain a part of the cap. Washington’s offset program is anticipated to become even more rigorous as the state is working to update its U.S. Forests Offsets protocol, which may begin to substantially diverge from California’s version. We are concerned that this could incentivize Washington-based carbon projects to pursue the less rigorous protocol. Again, we recognize that Ecology does not have the ability to change other state’s programs, but Ecology should consider using the formal negotiation process to encourage California to adopt a similar protocol.

In closing, the potential for linkage with California and Quebec’s joint market poses a unique opportunity for cross-state—and cross-country—collaboration to address the climate crisis. To achieve these benefits, we urge Ecology to maintain the strengths of Washington’s program and its prioritization of overburdened communities through establishing the ECR and preserving and bolstering its environmental justice provisions. We look forward to continuing to partner with the Department on this process.

Sincerely,

Altinay Karasapan
Washington Regulatory Policy Manager
Climate Solutions