



Jessica Spiegel

Vice President, Northwest Region

September 5, 2025

Sent via email to: Surabhi.Subedi@ecy.wa.gov

Washington State Department of Ecology
Attn: Surabhi Subedi, Environmental Planner
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on Draft Revisions to WAC 173-441 and WAC 173-446 (Cap-and-Invest Program & Linkage Rulemaking)

Dear Surabhi,

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide feedback on the rulemaking revising Chapters 173-441 and 173-446 WAC, intended to enable linkage of Washington's Cap-and-Invest program with the existing linked carbon market programs in California and Quebec, known as the Western Climate Initiative (WCI). WSPA represents refineries and other covered fuel suppliers that are central to Washington's economy, energy security, and workforce, and which are directly impacted by the Climate Commitment Act.

WSPA remains supportive of the long-term success of Washington's Cap-and-Invest program and recognizes the importance of eventual linkage with the Western Climate Initiative. To ensure linkage delivers benefits for Washington as well as other WCI members, the priority must be confirming that the program's design elements function effectively as a durable market over time.

WSPA strongly supports the Department of Ecology maintaining in-house modeling and analytical capabilities to evaluate the design of the Cap-and-Trade program. This includes both visionary assessments and pragmatic analysis of critical factors such as actual electric vehicle adoption rates, electricity system readiness, and the pace of decarbonization technology deployment. Grounding program design in these realities will help identify where adjustments may be needed to ensure long-term market sustainability and success. To this end, WSPA supported legislation last session that provided Ecology with the tools to carry out this important work.

As part of that important work, and outlined in our 2024 submission, we continue to urge a comprehensive economic assessment of linkage impacts. Such an analysis should evaluate:

- Potential impacts on energy-intensive, trade-exposed industries (EITEs), fuel suppliers, and small businesses.
- Consumer price effects from allowance price trajectories in a larger market.
- Risks of reduced competitiveness and unintended leakage of jobs or revenues.

WSPA has commissioned an economic study by NERA Consultants to assess the impact of potential linkage between the WA Cap-and-Invest Program with California/Quebec programs under the Western Climate Initiative (WCI), provided in Appendix A. This study should not be a substitute for independent work by Ecology to assess the impact of its program but can serve to provide additional perspective to such work.

It is important to note from this study that prices in a linked program are predicted to converge at the ceiling price in the 2030s, and any cost reductions for Washington's program due to linkage appear to be short-lived. These results iterate the importance of key design features, such as emission caps, that align with a feasible pace of emissions reductions and rate of deployment of infrastructure and associated low/no-carbon technologies.

Market Readiness and Stability

Draft amendments under WAC 173-446 move toward harmonization with California and Québec by codifying the new auction purchase limits for covered entities to 25% and clarifying corporate association group rules, which are important enablers for linkage. We also note the updated price ceiling and containment reserve provisions per HB 1975 (2025), which provides some temporary relief that will be important if Washington's program is not linked before settlement of the program's first compliance period in 2027. It is worth highlighting CARB's required steps for linkage include:

- An analysis by CARB staff of program compatibility for linkage;
- Executing a linkage agreement between jurisdictions;
- CARB request to the Governor's office to make SB 1018 findings;
- Governor's SB 1018 findings;
- Completion of a formal rulemaking process with Board adoption of regulation amendments to enable the acceptance of compliance instruments from Washington; and
- Linkage readiness report (if requested).

Reference: [Program Linkage | California Air Resources Board](#)

Given these steps, it may be a period of time before Washington can link with California. As a further step to prepare for potential linkage, we further recommend Ecology considers long term and transparent mechanisms to address price volatility and prevent unnecessary leakage of allowance revenues to other jurisdictions.

We support Ecology's recognition in WAC 173-446 of the need to distinguish provisions applying to linked versus unlinked needs. Further to ensuring the program if linked is well-functioning, we recommend that Ecology establish formal monitoring and review mechanisms – modeled on California's Cap-and-Trade program reviews – to periodically assess program impacts, market stability, and harmonization.

Defer Requirement for the Reporting of Complexity Weighted Barrel

WSPA requests that Ecology defer the requirement in WAC 173-441 (Table 050-1) to post 2030 for refineries (NAICS 324110) to report Complexity-Weighted Barrels (CWB) beginning with the first emissions year after a refinery's first turnaround after 2022. Ecology doesn't have WA-specific CWB factors and a refining benchmark. As a result, submission of CWB data will not be used in the calculation of allowance allocations. Because of this, CWB data will only be submitted because the current rule requires to do it. There is no additional use or benefit of that data.

This is an expensive requirement to install high accuracy meters that would only be required for CWB reporting and not provide any further benefit for refinery operations.

It worth note that California Air Resources Board (CARB) is actively evaluating a move to a technology-agnostic “liquid hydrocarbon fuel” benchmark and may phase out CWB after vintage 2030 allowance distribution. Pending CARB’s final direction and Washington’s linkage decisions, we request that Ecology pause the CWB-after-turnaround provision and, in the interim, require only the first two bullets, namely facility level Subpart MM report as reported under 40 C.F.R. Part 98 and barrels of crude oil and intermediate products received from off-site that are processed at the facility.

For the above reasons, WSPA requests a delay that would allow time for decision-making on the need for the data based on other Department of Ecology policy.

Reporting Integrity and Missing Data Substitution

As a second point of detail regarding WAC 173-441 revisions, WSPA notes specific concerns regarding the methodology for missing-data substitution. Proposed revisions to WAC 173-441-050(8)(h) introduce a tiered missing-data substitution system based on capture rates (<80%, 80–90%, ≥90%).

While we support the goal of ensuring robust data capture, we are concerned about the misalignment with EPA’s 40 CFR 98 that requires parameter-specific substitution based on adjacent quality-assured values, or the best available estimate. Ecology’s “highest historic value” approach departs significantly, requiring facilities to maintain two separate systems of records.

In addition to unnecessary double-bookkeeping, requiring the use of highest historical value creates the risk of inflating production data and skewing EITE allowance allocation and undermining fairness. The use of highest historical value does not improve accuracy compared to EPA’s approach and may bias results upward in variable operations.

As a further detail, there is ambiguity in the term “data year.” We anticipate you mean the previous calendar year, but this could be interpreted as the previous 12-month period. It will be important to clarify what is intended by this terminology in any final update to rule language.

Conclusion

WSPA appreciates the progress that has been made by Ecology to progress rulemaking to enable linkage but note that important fundamentals that have significant implications to Washington’s economy and citizens remain pending. It remains important to address these gaps, whether linkage occurs or not. Maintaining flexibility for Washington Cap-and-Invest given the uncertainty with the timing of linkage, and the different directions it could take, are of vital importance to the program.

Surabhi Subedi
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We appreciate Ecology's consideration of these comments and remain committed to continued engagement.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J Spiegel'.

Jessica Spiegel
Vice President, Northwest Region

