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Submitted via Web Portal

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RE: Cap-and-Invest Program Updates & Linkage Rulemaking – CR-102 Proposed Rules

On June 1, 2026, the Washington Department of Ecology (Ecology) issued form CR-102 (WSR 26-12-055) soliciting formal comments on proposed amendments to Ch. 173-441 WAC and Ch. 173-446 WAC under its Cap-and-Invest Program Updates & Linkage Rulemaking. The following comments are submitted by the Public Generating Pool (PGP), a trade association representing eight consumer-owned utilities in Washington and one in Oregon that own and operate their own generating resources. PGP appreciates the opportunity to comment.

General Comments

PGP supported the passage of Washington's Climate Commitment Act (CCA) in 2021 and has been deeply engaged in Ecology's subsequent rulemakings implementing the Cap-and-Invest Program. PGP has long supported linkage of Washington's Cap-and-Invest Program with the linked California-Québec market on the basis that it is expected to: (1) Allow Washington to meet its statutory greenhouse gas (GHG) emissions reduction targets at a lower cost to covered entities and their customers, and (2) create one shared, rather than two divergent, GHG price signals in both existing and developing Western energy markets. While PGP continues to support linkage, we believe that the design and execution of a linked market should align with the following principles:

- Any regulatory changes to Washington's program for the purpose of facilitating linkage or ensuring a harmonized approach post-linkage should be transparent, well defined, and broadly communicated well in advance of implementation, and should include adequate opportunities for stakeholder review and feedback.
- Regulatory changes intended to facilitate linkage should take into consideration the unpredictable seasonal and yearly variance associated with hydropower systems under rapidly changing climatic conditions (e.g., persistent low water conditions or changing shape of hydrograph).
- Compared to a Washington-only market, a linked market should provide net cost reductions for Washington's covered entities and their customers.

- A linked market should preserve a path for economic development that maintains the competitiveness of Washington electric utilities' commercial and industrial customers while protecting against emissions leakage.
- Regulatory changes intended to facilitate linkage should maintain Washington's statutory treatment of electric utility no-cost allowance allocation and should not negatively affect covered electric utilities' compliance pathways.

In keeping with these principles, PGP respectfully offers the following comments on select elements of Ecology's CR-102 proposed rules.

Compliance Periods

PGP is concerned that the proposed amendment to the definition of "compliance period" in order to facilitate linkage may have unintended consequences for the state's electric utilities and their customers. While Ecology's proposed amendment in this instance is directed by legislation (SB 6058; chapter 352, laws of 2024), PGP is concerned that this change has the potential to compromise a key purpose of the Washington-adopted compliance period structure, which is to address the unique characteristics of hydropower variability in the Northwest.

PGP recommends that Ecology facilitate a public process to evaluate the impacts of shortened compliance periods on Washington electric utilities and their customers and identify alternative programmatic approaches that can enable linkage without ultimately requiring Washington to forego the benefits of its adopted compliance period structure.

Background

Among the statutory changes made by SB 6058 was an amendment to RCW 70A.65.070 that specifies that if Ecology enters into a linkage agreement, and the linked jurisdictions do not amend their rules to synchronize with Washington's compliance periods, Ecology must amend its rules to synchronize Washington's compliance periods with those of the linked jurisdiction(s) beginning with the second compliance period. At the time the Legislature was considering SB 6058, the linked California-Québec market had three-year compliance periods through calendar year 2029. Both the Senate Environment, Energy & Technology Committee[1] and House of Representatives Environment & Energy Committee[2] heard public testimony that transitioning to California and Québec's three-

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[1] Washington State Legislature. Senate Bill Report, SB 6058, As Reported by Senate Committee on Ways & Means, February 5, 2024. Retrieved from: https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/Senate/6058%20SBR%20WM%20OC%2024.pdf?q=20260630104420.

[2] Washington State Legislature. House Bill Report, E2SSB 6058, As Passed House – Amended: February 29, 2024. Retrieved from: https://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/House/6058-S2.E%20HBR%20APH%2024.pdf?q=20260630104420.

year compliance periods may result in negative consequences for hydropower-dependent electric utilities covered under the program and, ultimately, their Washington customers.

Because of Washington's rich hydropower landscape, hydropower-dependent electric utilities' compliance costs under the CCA are inversely correlated with the availability of water resources—i.e., low water years yield increased emissions associated with in-state emitting generation and unspecified market imports, thereby increasing compliance costs, while high water years yield reduced emissions associated with in-state emitting generation and unspecified market imports, thereby reducing compliance costs. A longer compliance period smooths out this variability, reduces market volatility, and ensures that Washington electric utilities and their customers are not unduly "penalized" by back-to-back low water years and associated compliance costs.

Based on the legislative record for SB 6058, it is unclear whether the Washington State Legislature was aware at the time that California and Québec were considering further shortening their compliance periods to as little as two years. Indeed, the California Air Resources Board (CARB) did not feature compliance period duration as a topic for consideration in its 2023 workshop series[3] on potential amendments to its regulation, while Québec's Ministry of the Environment, the Fight Against Climate Change, Wildlife and Parks featured the topic at only one pre-consultation meeting in September 2023[4]. Following Washington's passage of SB 6058, in September 2025 the California State Legislature passed and Governor Newsom signed AB 1207, which extended the statutory authorization for CARB's program through 2045 and directed the agency to align its program cap with the state's 2030 and 2045 statutory emissions limits. CARB Staff cited this statutory direction as the primary rationale for shortening compliance period duration in the Initial Statement of Reasons for its 45-Day Amendment proposed rule package published on January 20, 2026, which included modifications to California's sixth and seventh compliance periods to be biannual and for subsequent compliance periods to alternate between durations of three and two calendar years[5]. Multiple entities, including PGP, the Bonneville Power Administration, the Northern California Power Agency, the Southern California Public Power Authority, and the California Municipal Utilities Association, submitted public comments to CARB[6] expressing concern that shorter compliance periods could reduce flexibility in managing market exposure for electric utilities with a high penetrations of seasonal renewable resources, particularly hydropower.

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[3] California Air Resources Board. Cap-and-Trade Meetings & Workshops. Retrieved from: https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program/cap-and-trade-meetings-workshops.

[4] Québec Ministry of the Environment, the Fight Against Climate Change, Wildlife and Parks. September 27, 2023. Assessment of the operating parameters of the Cap-and-Trade System: Pre-consultations. Retrieved from: https://www.environnement.gouv.qc.ca/changements/carbone/Webinaire/webinaire-refonte-spede-en.pdf.

[5] California Air Resources Board. January 20, 2026. Staff Report: Initial Statement of Reasons. Retrieved from: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2026/cap_invest/nc_isor.pdf.

[6] California Air Resources Board. July 14, 2026. Final Statement of Reasons, Appendix 2 – Summary of Comments and Agency Response. Retrieved from: https://ww2.arb.ca.gov/rulemaking/2026/cap-and-invest2026.

CARB ultimately adopted final rules implementing AB 1207, including the modifications to compliance period duration, on May 29, 2026. A similar rulemaking with accompanying compliance period changes is currently underway in Québec, which has its own emissions reduction targets for 2030 and 2050.

This regulatory action by California and Québec, together with the statutory direction provided to Ecology under SB 6058, preclude Washington from maintaining its context-specific, four-year compliance periods while still linking with those jurisdictions. While programs do not need to be identical in order to link, it is PGP's understanding that compliance period duration is one programmatic design component that does need to be harmonized. As noted above, PGP supports linkage and its potential to lower overall costs for Washington consumers. However, the impact of shortening the compliance periods on hydropower-dependent utilities and the potential for increased costs associated with these new compliance periods should not be ignored. Ecology's approach thus far has been to propose compliance period alignment without discussing or addressing this tradeoff.

Recommendation

Following the conclusion of the present rulemaking, Ecology should, through a public process, evaluate how the transition from Washington's four-year compliance structure to a linked-jurisdiction structure that alternates between two and three calendar years will affect hydroelectric utilities, public power customers, allowance procurement strategies, and overall compliance costs. Ecology should also consult with the linked jurisdictions, covered entities, and other stakeholders to identify alternative programmatic approaches that Washington could consider post-linkage to achieve the same or comparable compliance flexibility and other benefits currently afforded by the Cap-and-Invest Program's four-year compliance structure.

Electric Utility Consignment Requirements

Ecology's CR-102 proposed rules include amendments to WAC 173-446-230, relating to no-cost allowance allocation for electric utilities. The proposed rules would require electric utilities to consign a certain number of no-cost allowances beginning with emissions year 2027, unless the utility qualifies under one of three exemption thresholds.

PGP continues to believe that RCW 70A.65.120(2)(d) and (3)(b) give Ecology the discretion *not* to adopt minimum consignment requirements for electric utilities for the second compliance period and beyond, and that Ecology should defer adopting minimum consignment requirements until more discussion and analysis can determine whether required consignment will actually drive Ecology's desired economic and policy outcomes. Any economic or policy benefits associated with consignment could be outweighed by greater direct compliance costs if a covered utility is required to "buy back" allowances at a higher settlement price than it receives for its consigned allowances.

For consumer-owned utilities, any compliance costs that are not mitigated by no-cost allowance allocation will ultimately be borne by utility customers through rates.

However, if Ecology decides to adopt the proposed rules or a variation thereof, PGP finds the proposed combination of three different exemption thresholds and three different minimum consignment equations to be confusing, and perhaps overly complicated. In order to avoid confusion with respect to whether a particular exemption threshold or minimum consignment equation applies to a given utility for a given emissions year, Ecology should annually notify each utility of: (a) Whether the utility is exempt from the minimum consignment requirement for a given emissions year *t*, and if so, which exemption threshold applies; and (b) if not exempt, the number of no-cost allowances that the utility must offer for consignment by December 31st of the following emissions year (*t+1*), and which minimum consignment equation applies. If Ecology takes on the role of notifying each electric utility of its annual consignment requirement, Ecology should provide an opportunity for the electric utility to review the inputs used by Ecology in determining its annual consignment requirement. For the sake of transparency, and given the complexity of the exemption thresholds and minimum consignment equations, Ecology could also consider publishing utilities' annual consignment requirements for emissions year *t* alongside the updated allocation schedules published by October 7th of the same year. PGP notes, however, that variables in the relevant equations relating to total compliance obligations as a first jurisdictional deliverer in emissions year *t* will not be known until the following year (*t+1*).

In addition to the above comments, PGP also respectfully observes that the clarity of proposed WAC 173-446-230(6)(a) could be improved with the following technical edits:

(a) An electric utility is not required to consign no cost allowances provided for emissions year *t*, if the number of no cost allowances calculated in Eq. 230-1 is ((~~either~~)):

(i) Less than two times the forecast load for emissions year *t* served by power marketed by a federal power marketing administration multiplied by the applicable emission factor; or

(ii) Less than two times the electric utility's total compliance obligation as a first jurisdictional deliverer in any emissions year *t* minus one to *t* minus three((~~.~~)); or

(iii) Less than two times the electric utility's total compliance obligation as a first jurisdictional deliverer in emissions year *t*.

Ch. 173-441 WAC – Electric Power Entity Provisions

With respect to amendments made by the proposed rules to provisions relating to electric power entities (EPE) under Ch. 173-441 WAC, PGP reiterates our May 20, 2026, comments[7], summarized below:

- **Federal Power Marketing Administration Provisions:** PGP supports the inclusion of provisions in new proposed WAC 173-441-124(2)(d)(xii) identifying the appropriate "electricity importer" in situations where a federal power marketing administration (FPMA) participates in a centralized electricity market (CEM) but has not opted-in to Washington's Cap-and-Invest Program. PGP also supports the proposed amendment to the current definition of "deemed market importer" specifying that if an FPMA is the market participant on behalf of non-federal resources, then the resource owner or operator is the deemed market importer.
- **Proposed Market Purchaser Framework:** PGP continues to have concerns with the new "market purchaser" definition and reporting requirements in proposed WAC 173-441-124(2)(pp) and WAC 173-441-124(3)(g). It is unclear how this proposed framework would align with the current "deemed market importer" framework and whether EPEs would be able to provide the requested information. The proposed rules also use terminology that are not current defined in Ch. 173-441 WAC.
- **Electricity Storage Systems:** The topic of reporting requirements for electricity storage systems (ESS) warrants more deliberative discussion among stakeholders. However, PGP does have some concern with an outcome where electricity imports would be treated as unspecified in the absence of a specific rule addressing these imports. For the present rulemaking, PGP recommends that Ecology clarify that imports from ESS can be treated as unspecified or specified in order to enable an EPE to demonstrate a reasonable approach for specified treatment in the absence of the adoption of a detailed methodology.

Conclusion

PGP appreciates the opportunity to offer formal comments on Ecology's CR-102 proposed rules under the Cap-and-Invest Program Updates & Linkage Rulemaking. PGP also highly values and appreciates the approach to stakeholder engagement taken by Ecology during the development phase of this rulemaking, including the numerous topical workshops, community forums, and informal comment opportunities provided since 2024. The time commitment, curiosity, and expertise developed and exhibited by Ecology staff over the course of this rulemaking helps to create the best environment for sensible and durable policy adoption.

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[7] Public Generating Pool. May 20, 2026. RE: Ecology April 20th Draft Electricity Imports & Centralized Electricity Market Rules. Retrieved from: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210619/assets/merged/870aiqy9kdj_document.pdf?v=21319.

Sincerely,

/s/ Mary Wiencke

Mary Wiencke
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Public Generating Pool