RCW 70A.65.170  Offsets. (1) The department shall adopt by rule
the protocols for establishing offset projects and securing offset
credits that may be used to meet a portion of a covered or opt-in
entity's compliance obligation under this chapter. The protocols
adopted by the department under this section must align with the
policies of the state established under RCW 70A.45.090 and 70A.45.100.

(2) Offset projects must:
    (a) Provide direct environmental benefits to the state or be
located in a jurisdiction with which Washington has entered into a
linkage agreement;
    (b) Result in greenhouse gas reductions or removals that:
        (i) Are real, permanent, quantifiable, verifiable, and
        enforceable; and
        (ii) Are in addition to greenhouse gas emission reductions or
        removals otherwise required by law and other greenhouse gas emission
        reductions or removals that would otherwise occur; and
    (c) Have been certified by a recognized registry.

(3) (a) A total of no more than five percent of a covered or opt-in
entity's compliance obligation during the first compliance period
may be met by transferring offset credits. During these years, at
least 50 percent of a covered or opt-in entity's compliance obligation
satisfied by offset credits must be sourced from offset projects that
provide direct environmental benefits in the state.

    (b) A total of no more than four percent of a covered or opt-in
entity's compliance obligation during the second compliance period may
be met by transferring offset credits. During these years, at least 75
percent of a covered or opt-in entity's compliance obligation
satisfied by offset credits must be sourced from offset projects that
provide direct environmental benefits in the state. The department may
reduce the 75 percent requirement if it determines there is not
sufficient offset supply in the state to meet offset demand during the
second compliance period.

    (c) The limits in (a) and (b) of this subsection may be modified
by rule as adopted by the department when appropriate to ensure
achievement of the proportionate share of statewide emissions limits
established in RCW 70A.45.020 and to provide for alignment with other
jurisdictions to which the state has linked.

    (d) The limits in (a) and (b) of this subsection may be reduced
for a specific covered or opt-in entity if the department determines,
in consultation with the environmental justice council, that the
covered or opt-in entity has or is likely to:
        (i) Contribute substantively to cumulative air pollution burden
        in an overburdened community as determined by criteria established by
        the department, in consultation with the environmental justice
council; or
        (ii) Violate any permits required by any federal, state, or local
        air pollution control agency where the violation may result in an
        increase in emissions.

    (e) An offset project on federally recognized tribal land does
not count against the offset credit limits described in (a) and (b) of
this subsection.

        (i) No more than three percent of a covered or opt-in entity's
        compliance obligation may be met by transferring offset credits from
        projects on federally recognized tribal land during the first
        compliance period.
        (ii) No more than two percent of a covered or opt-in entity's
        compliance obligation may be met by transferring offset credits from
projects on federally recognized tribal land during the second compliance period.

(4) In adopting protocols governing offset projects and covered and opt-in entities' use of offset credits, the department shall:

(a) Take into consideration standards, rules, or protocols for offset projects and offset credits established by other states, provinces, and countries with programs comparable to the program established in this chapter;

(b) Encourage opportunities for the development of offset projects in this state by adopting offset protocols that may include, but need not be limited to, protocols that make use of aggregation or other mechanisms to reduce transaction costs related to the development of offset projects and that support the development of carbon dioxide removal projects;

(c) Adopt a process for monitoring and invalidating offset credits as necessary to ensure the credit reflects emission reductions or removals that continue to meet the standards required by subsection (1) of this section. If an offset credit is invalidated, the covered or opt-in entity must, within six months of the invalidation, transfer replacement credits or allowances to meet its compliance obligation. Failure to transfer the required credits or allowances is a violation subject to penalties as provided in RCW 70A.65.200; and

(d) Make use of aggregation or other mechanisms, including cost-effective inventory and monitoring provisions, to increase the development of offset and carbon removal projects by landowners across the broadest possible variety of types and sizes of lands, including lands owned by small forestland owners.

(5) Any offset credits used must:

(a) Not be in addition to or allow for an increase in the emissions limits established under RCW 70A.45.020, as reflected in the annual allowance budgets developed under RCW 70A.65.070;

(b) Have been issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021; and

(c) Be consistent with offset protocols adopted by the department.

(6) The offset credit must be registered and tracked as a compliance instrument.

(7) Beginning in 2031, the limits established in subsection (3)(b) and (e)(ii) of this section apply unless modified by rule as adopted by the department after a public consultation process. [2022 c 181 § 12; 2021 c 316 § 19.]