

WAC 173-446-056 Cap and invest consultants and advisors. (1) A "cap and invest consultant or advisor" is an individual or party that is providing any of the following services in relation to the cap and invest program or the GHG reporting program to a registered entity for which the individual or party is not an owner or employee regardless of if the consultant or advisor is acting in the capacity of an offset or emissions verifier:

(a) Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions or development of a forest management plan, or timber harvest plan, unless the review is part of providing GHG offset verification services; or, where applicable, designing, developing, implementing, reviewing, or maintaining electricity or fuel transactions, unless the review is part of providing GHG verification services;

(b) Developing GHG emission factors or other GHG-related engineering analyses, including developing or reviewing a GHG analysis to comply with the State Environmental Policy Act (SEPA) that includes offset project specific information;

(c) Designing energy efficiency, renewable power, or other projects that explicitly identify GHG reductions and GHG removal enhancements as a benefit;

(d) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and GHG removal enhancements;

(e) Owning, buying, selling, trading, or retiring shares, stocks, or ecology offset credits, or registry offset credits from an offset project;

(f) Dealing in or being a promoter of Washington offset credits on behalf of an offset project operator, authorized project designee, if applicable, and their technical consultant(s), or where the credits are owned by or the offset project was developed by the reporting party;

(g) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for a reporting party or an offset project operator, authorized project designee, if applicable, and their technical consultant(s);

(h) Providing appraisal services of carbon or GHG liabilities or assets;

(i) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;

(j) Being directly responsible for developing any health, environment or safety policies for the offset project operator, authorized project designee, if applicable, and their technical consultant(s); or directly managing any health, environment or safety functions for a reporting party;

(k) Bookkeeping or other services related to the accounting records or financial statements;

(l) Providing any service related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification) and energy management systems, including those conforming to ISO 50001, unless those systems will not be part of an emissions verification process and will not be reviewed as part of the offset verification process;

(m) Appraisal and valuation services, both tangible and intangible;

(n) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the emissions verification process and the information reviewed in formulating the offset verification statement will not be reviewed as part of the offset verification process;

(o) Any actuarially oriented advisory service involving the determination of accounts recorded in financial statements and related accounts;

(p) Any internal audit service that has been outsourced by the reporting party or by the offset project operator, authorized project designee, if applicable, and their technical consultant(s) that relates to the offset project operator's, authorized project designee's, if applicable, and their technical consultant(s)' internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;

(q) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of a reporting party or an offset project operator, authorized project designee, if applicable, and their technical consultant(s);

(r) Any legal services provided by outside counsel hired by a registered entity and providing legal services related to any of the other services described in this section. Also, any attorney providing nonlegal services, such as brokering, auditing, financial advice, bid strategy, or other services listed in this section; and

(s) Expert services to an emissions reporter or to the offset project operator, authorized project designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the offset project operator's, authorized project designee's, if applicable, and their technical consultant(s)' interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.

(2) Any registered entity employing cap and invest consultants or advisors must disclose to ecology the following information for each cap and invest consultant or advisor:

(a) Information to identify the cap and invest consultant or advisor, including:

(i) Name;

(ii) Contact information;

(iii) Physical work address of the cap and invest consultant or advisor;

(iv) Employer, if applicable; and

(v) Type of service provided.

(b) The party must disclose the information in (a) of this subsection to ecology:

(i) With the disclosures required under WAC 173-446-120;

(ii) Within 30 calendar days of entering into a contract with a cap and invest consultant or advisor; and

(iii) Within 30 calendar days of a change to the information disclosed on consultants and advisors.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-056, filed 9/29/22, effective 10/30/22.]