
SUBSTITUTE HOUSE BILL 1314

State of Washington

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2015 Regular Session

By House Environment (originally sponsored by Representatives Fitzgibbon, Hunter, Moeller, Carlyle, Peterson, Goodman, McBride, Jinkins, Tarleton, Kagi, Appleton, Cody, Ryu, Pollet, Hudgins, Fey, Lytton, Robinson, Ormsby, Farrell, Dunshee, Bergquist, Stanford, S. Hunt, Pettigrew, Walkinshaw, Reykdal, Wylie, Riccelli, Tharinger, Senn, Sawyer, Gregerson, Sells, Moscoso, Ortiz-Self, and Van De Wege; by request of Governor Inslee)

READ FIRST TIME 02/12/15.

1 AN ACT Relating to implementing a carbon pollution market program
2 to reduce greenhouse gas emissions; amending RCW 43.21B.110,
3 43.21B.110, 70.235.010, 70.235.020, and 70.94.151; reenacting and
4 amending RCW 42.56.270; adding a new section to chapter 82.04 RCW;
5 adding a new chapter to Title 70 RCW; creating new sections;
6 prescribing penalties; providing an effective date; providing an
7 expiration date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** INTENT AND FINDINGS. (1) The legislature
10 finds that climate change is harming the state and that without
11 substantial reductions in greenhouse gas emissions the harm to the
12 state will be greatly increased. While Washington's emissions are
13 only a small part of the global emissions of greenhouse gases, the
14 state must act to reduce its own emissions while providing leadership
15 and a model for action by other jurisdictions to address their own
16 emissions. The 2008 legislature established statewide emission limits
17 that are to be achieved by 2020, 2035, and 2050, but did not enact a
18 comprehensive program to ensure that the emission reductions would be
19 accomplished. The legislature intends to provide such a program by
20 this act to meet Washington state's commitment to its present and
21 future generations to fully address the climate change challenge.

1 (2) The centerpiece of this program is the creation of a cost-
2 effective carbon pollution market for reducing greenhouse gas
3 emissions that is capable of being integrated with emission reduction
4 programs in other jurisdictions. The Washington program will allow
5 the state to achieve the statewide emission reductions required by
6 current law in the most cost-effective manner through market trading
7 of emission allowances. By implementing this program, the state will
8 not only contribute its fair share of necessary global emission
9 reductions, but will also grow the state's clean energy economy and
10 provide greater certainty to Washington businesses.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Allowance" means a tradable authorization to emit up to one
15 metric ton of carbon dioxide equivalent.

16 (2) "Allowance price containment reserve" means an account
17 maintained by the department with allowances available for sale
18 through separate reserve auctions at predefined prices to assist in
19 containing compliance costs for covered and opt-in entities in the
20 event of unanticipated high costs for compliance instruments.

21 (3) "Annual allowance budget" means the total number of
22 greenhouse gas allowances allocated for auction or distribution for
23 one calendar year by the department.

24 (4) "Auction" means the process of selling greenhouse gas
25 allowances, along with allowances from external greenhouse gas
26 emissions trading programs with which Washington has linked its
27 carbon pollution market program, by offering them up for bid, taking
28 bids, and then distributing the allowances to winning bidders.

29 (5) "Auction floor price" means a price for allowances below
30 which bids at auction would not be accepted.

31 (6) "Auction purchase limit" means the limit on the number of
32 allowances one registered entity or a group of affiliated registered
33 entities may purchase from the share of allowances sold at an
34 auction.

35 (7) "Carbon dioxide equivalent" means a measure used to compare
36 the emissions from various greenhouse gases based on their global
37 warming potential.

38 (8) "Compliance instrument" means an allowance or offset credit,
39 issued by the department or by an external greenhouse gas emissions

1 trading program to which Washington has linked its carbon pollution
2 market program. A covered or opt-in entity may use one compliance
3 instrument to fulfill each compliance obligation equivalent to one
4 metric ton of carbon dioxide equivalent.

5 (9) "Compliance obligation" means the requirement to turn in to
6 the department the number of compliance instruments equal to a
7 covered or opt-in entity's covered emissions during the compliance
8 period.

9 (10) "Compliance period" means the three-year period for which
10 the compliance obligation is calculated for covered and opt-in
11 entities except for the first compliance period. The first compliance
12 period is from July 1, 2016, through December 31, 2017.

13 (11) "Covered entity" means a person with a compliance
14 obligation, and who has emitted or is otherwise responsible, as
15 specified in this chapter, for emissions that are more than the
16 applicable emission threshold.

17 (12) "Department" means the department of ecology.

18 (13) "Emission threshold" means the greenhouse gas emission level
19 at or above which a person has a compliance obligation.

20 (14) "External greenhouse gas emission trading program" means a
21 government program, other than Washington's carbon pollution market
22 program created in this chapter, that controls greenhouse gas
23 emissions from sources outside of Washington through an emissions
24 trading program.

25 (15) "Facility," unless otherwise specified in subparts C through
26 II of 40 C.F.R. Part 98 as adopted on April 25, 2011, or proposed by
27 December 1, 2010, means any physical property, plant, building,
28 structure, source, or stationary equipment located on one or more
29 contiguous or adjacent properties in actual physical contact or
30 separated solely by a public roadway or other public right-of-way and
31 under common ownership or common control, that emits or may emit any
32 greenhouse gas. "Facility" includes a refinery facility.

33 (16) "First jurisdictional deliverer" means the first person over
34 which the state of Washington has jurisdiction that generates or
35 procures electricity for use within the state and delivers that
36 electricity to the first point of delivery.

37 (17) "General market participant" means a registered entity that
38 is not identified as a covered entity or an opt-in entity who is
39 registered in the program registry and intends to purchase, hold,
40 sell, or voluntarily retire compliance instruments.

1 (18) "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄),
2 nitrogen trifluoride (NF₃), nitrous oxide (N₂O), sulfur hexafluoride
3 (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other
4 fluorinated greenhouse gases.

5 (19) "Holding limit" means the maximum number of allowances that
6 may be held for use or trade by a registered entity at any one time.

7 (20) "Imported electricity" means electricity generated outside
8 the state of Washington and delivered for use within the state, but
9 which did not originate from any jurisdiction with which Washington
10 has a linkage agreement.

11 (21) "Limits" means the greenhouse gas emission reductions
12 required for Washington state by 2020, 2035, and 2050, as specified
13 in RCW 70.235.020(1).

14 (22) "Linkage agreement" means a formal agreement that connects
15 two or more carbon market programs to reciprocally recognize each
16 jurisdiction's compliance instruments.

17 (23) "Offset credit" means a tradable compliance instrument that
18 represents an emission reduction or emission removal of one metric
19 ton of carbon dioxide equivalent.

20 (24) "Offset project" means a project that reduces or removes
21 greenhouse gases that derive from sources not covered by the program.

22 (25) "Offset protocols" means a set of procedures and
23 requirements to quantify greenhouse gas reductions or greenhouse gas
24 removals achieved by an offset project.

25 (26) "Opt-in entity" is a person responsible for the emission of
26 greenhouse gases not covered by the program and that voluntarily
27 chooses to participate in the program as if it were a covered entity.

28 (27) "Person" means an individual, firm, partnership, franchise
29 holder, association, organization, corporation, business trust,
30 company, limited liability company, or government entity.

31 (28) "Point of delivery" means a point on the electricity
32 transmission or distribution system physically located in Washington
33 where a power supplier delivers electricity for use in the state.
34 This point can be an interconnection with another system or a
35 substation where the transmission provider's transmission and
36 distribution systems are connected to another system, or a
37 distribution substation where electricity is imported into the state
38 over a multijurisdictional retail provider's distribution system.

1 (29) "Program" means the carbon pollution market program
2 implemented under this chapter.

3 (30) "Program registry" means the data system in which covered
4 entities, opt-in entities, and general market participants are
5 registered and in which compliance instruments are recorded and
6 tracked.

7 (31) "Refinery facility" means a facility that is operated by a
8 person who is also a fuel supplier.

9 (32) "Registered entity" means a covered entity, opt-in entity,
10 or general market participant that has completed the process for
11 registration in the program registry.

12 (33) "Retire" means to permanently remove an allowance or offset
13 credit such that the allowance or offset credit may never be sold,
14 traded, or otherwise used again.

15 (34) "Supplier" means a supplier of:

16 (a) Fuel that produces, refines, imports, or delivers, or any
17 combination of producing, refining, importing, or delivering, a
18 quantity of fuel in Washington that, if completely combusted,
19 oxidized, or used in other processes, would result in the release of
20 greenhouse gas equivalent to or higher than the threshold established
21 under RCW 70.94.151(5)(a); or

22 (b) Carbon dioxide that produces, imports, or delivers a quantity
23 of carbon dioxide in Washington that, if released, would result in
24 emissions equivalent to or higher than the threshold established
25 under RCW 70.94.151(5)(a).

26 (35) "Surrender" means to transfer an allowance or offset credit
27 to the department, either to meet a compliance obligation or on a
28 voluntary basis.

29 NEW SECTION. **Sec. 3.** CARBON POLLUTION MARKET PROGRAM CREATED.

30 (1) In order for the state's emission reduction limits established in
31 RCW 70.235.020 to be achieved, the department shall implement a
32 carbon pollution market program for emissions from covered entities
33 by creating and distributing allowances that are tradable regionally,
34 nationally, and internationally.

35 (2) The program shall consist of:

36 (a) Annual allowance budgets that limit emissions from covered
37 entities, as provided in section 4 of this act;

1 (b) Defining those entities covered by the program, and those
2 entities that may voluntarily opt into coverage under the program, as
3 provided in sections 5 and 6 of this act;

4 (c) Distribution of emission allowances by auction, as provided
5 in section 7 of this act, and allowance price containment provisions
6 under section 8 of this act;

7 (d) Providing for offset credits as a method for meeting a
8 compliance obligation, pursuant to section 9 of this act;

9 (e) Defining the compliance obligation for covered entities, as
10 provided in section 10 of this act;

11 (f) Establishing the authority of the department to enforce the
12 program requirements, as provided in section 11 of this act;

13 (g) Creating a carbon pollution reduction account for the deposit
14 of receipts from the distribution of emission allowances and
15 authorizing the use of program funds in the account to address state
16 budget priorities, mitigate disproportionate effects on at-risk
17 communities and business sectors, and further reduce emissions, as
18 described in section 12 of this act;

19 (h) Establishing programs to support businesses that may be
20 significantly affected by the program, as provided in sections 13
21 through 16 of this act;

22 (i) Providing for the transfer of allowances and recognition of
23 compliance instruments issued by jurisdictions that enter into
24 linkage agreements with the state, as provided in section 17 of this
25 act;

26 (j) Providing for allowance market monitoring and oversight, and
27 creating the financial advisory committee to provide advice to the
28 department in the implementation of the program, as provided in
29 section 18 of this act; and

30 (k) Creating, in section 19 of this act, an economic justice and
31 environmental equity advisory committee to monitor for and advise on
32 solutions to unwanted program impacts on jobs and vulnerable
33 communities.

34 (3) The department shall implement the program in a manner that
35 allows linking the state's program with other jurisdictions having
36 similar programs.

37 NEW SECTION. **Sec. 4.** SETTING ANNUAL ALLOWANCE BUDGETS. (1) The
38 department shall commence the program on July 1, 2016. The department
39 shall determine the total combined emissions expected from all

1 covered entities with a compliance obligation under the program.
2 Based on those combined emissions, the department shall establish an
3 annual allowance budget for each year of the program, consistent with
4 subsections (2) through (5) of this section. The department must set
5 annual allowance budgets to gradually reduce the total combined
6 emissions from the covered entities to meet their combined share of
7 the emission reductions required for the state to achieve the
8 emission limits established in RCW 70.235.020. The combined share of
9 covered entities emission reduction obligations is the proportion of
10 the greenhouse gas emissions by covered entities in 2016 relative to
11 the state's overall emissions that year.

12 (2) By January 1, 2016, the department shall establish by rule
13 the annual allowance budgets for July 1, 2016, to December 31, 2016,
14 and for January 1, 2017, to December 31, 2017, based on the best
15 estimate of the expected combined emissions for the sources covered
16 by the program. The department must submit a report to the
17 appropriate fiscal and policy committees of the legislature by
18 January 1, 2016, that describes the methodology it used to calculate
19 the annual allowance budgets established by this subsection. The
20 report must also include an analysis, in consultation with covered
21 entities, of the technologies available to achieve the emissions
22 reductions required by the allowance budgets without compromising
23 jobs and productivity.

24 (3) By January 1, 2017, the department shall adopt by rule the
25 annual allowance budgets for the combined emissions of the covered
26 entities for each year from January 1, 2018, to December 31, 2026.
27 The department must submit a report to the appropriate fiscal and
28 policy committees of the legislature by January 1, 2017, that
29 describes the methodology it used to calculate the annual allowance
30 budgets established by this subsection. The report must also include
31 an analysis, in consultation with covered entities, of the
32 technologies available to achieve the emissions reductions required
33 by the allowance budgets without compromising jobs and productivity.

34 (4) By January 1, 2026, annual allowance budgets for each year
35 from January 1, 2027, to December 31, 2036, must be set by rule after
36 conducting an evaluation of the performance of the program and
37 determining whether adjustments are needed. The evaluation must be
38 completed by December 31, 2024.

39 (5) The department shall adopt by rule the conditions under which
40 it may revise annual allowance budgets. However, the department may

1 not revise annual allowance budgets prior to the compliance period
2 beginning January 1, 2021.

3 NEW SECTION. **Sec. 5.** ENTITIES REQUIRED TO BE COVERED IN THE
4 PROGRAM. (1) Except as provided in subsections (2) and (5) of this
5 section and section 6(5) of this act, a person is a covered entity as
6 of the beginning of the first compliance period and all subsequent
7 compliance periods if the person reported emissions under RCW
8 70.94.151 in any calendar year from 2012 through 2014 that equals or
9 exceeds any of the following thresholds:

10 (a) Where the person operates a facility and the facility's
11 emissions equal or exceed twenty-five thousand metric tons of carbon
12 dioxide equivalent;

13 (b) Where the person is a first jurisdictional deliverer bringing
14 electricity into the state and the cumulative annual total of
15 emissions associated with imported electricity into the state equals
16 or exceeds twenty-five thousand metric tons of carbon dioxide
17 equivalent. The person must have either full or partial ownership in
18 the facility providing the imported electricity, or a written power
19 contract to procure the imported electricity at the facility, at the
20 time of entry of the transaction to procure electricity in order for
21 the associated emissions to be derived from the facility emissions.
22 Otherwise, the associated emissions are deemed to be unspecified and
23 an appropriate emissions factor must be adopted by the department of
24 commerce by rule;

25 (c) Where the person is a fuel supplier and has reported twenty-
26 five thousand metric tons or more of carbon dioxide equivalent
27 emissions that would result from the full combustion or oxidation of
28 the supplied fuels and has a compliance obligation for the emissions
29 from the full combustion or oxidation of those supplied fuels
30 consistent with subsection (6)(b)(iii) of this section;

31 (d) Where the person operates a facility and is a direct
32 purchaser from a federal power market agency of electricity whose
33 associated emissions from both the facility and purchased electricity
34 equals or exceeds twenty-five thousand metric tons of carbon dioxide
35 equivalent.

36 (2) When a covered entity reports, during a compliance period,
37 emissions for a facility under RCW 70.94.151 that are below the
38 thresholds specified in subsection (1) of this section, the covered
39 entity continues to have a compliance obligation through the current

1 compliance period. When a covered entity demonstrates emissions below
2 the threshold during an entire compliance period, or has ceased all
3 processes at the facility requiring reporting under RCW 70.94.151,
4 the entity is no longer a covered entity having a compliance
5 obligation until such time as the emissions from the facility again
6 exceed the threshold.

7 (3) For types of emission sources described in subsection (1) of
8 this section that begin or modify operation after January 1, 2014,
9 coverage under the program starts in the calendar year where
10 emissions from the source exceed the applicable thresholds in
11 subsection (1) of this section. Sources meeting these conditions are
12 required to surrender their first allowances on the first surrender
13 deadline of the year following the year in which their emissions were
14 equal to or exceeded the emissions threshold.

15 (4) For emission sources described in subsection (1) of this
16 section that are in operation or otherwise active between 2012
17 through 2014 but were not required to report emissions for those
18 years, coverage under the program starts in the calendar year
19 following the year where emissions from the source exceed the
20 applicable thresholds in subsection (1) of this section as reported
21 pursuant to RCW 70.94.151, or upon formal notice from the department
22 that the source is expected to exceed the applicable emissions
23 threshold for the first year that source is required to report
24 emissions, whichever happens first. Sources meeting these conditions
25 are required to surrender their first allowances on the first
26 surrender deadline of the year following the year in which their
27 emissions, as reported under RCW 70.235.020, were equal to or
28 exceeded the emissions threshold.

29 (5) Emissions that are not required to be reported under RCW
30 70.94.151 are not covered by the program. In addition, the following
31 emissions are not covered by the program, regardless of the emissions
32 reported under RCW 70.94.151:

33 (a) Emissions from the combustion of biomass in the form of fuel
34 wood, wood waste, wood by-products, and wood residuals, as long as
35 the source biomass is harvested pursuant to an approved timber
36 management plan prepared in accordance with the forest practices act
37 under chapter 76.09 RCW, a habitat conservation plan, or other state
38 or federally approved management plan, or harvested under an approved
39 forest fire fuel reduction or forest stand improvement plan;

1 (b) Emissions from combustion of biofuels or the biofuel
2 component of blended fuels, as the term "biofuels" is defined in RCW
3 43.325.010;

4 (c) Emissions from the combustion of aviation fuels during a
5 flight originating or terminating outside of Washington;

6 (d) Vented or fugitive emissions that are unintentional and could
7 not reasonably pass through a stack, chimney, vent, or other
8 functionally equivalent opening;

9 (e) Emissions from a coal-fired electric generation facility
10 exempted from additional greenhouse gas limitations, requirements, or
11 performance standards under RCW 80.80.110; and

12 (f) Emissions from facilities with 2012 North American industry
13 classification system code 92811 (national security).

14 (6)(a) The department may not require multiple covered entities
15 to have a compliance obligation for the same emissions.

16 (b)(i) The operator of a facility that is a covered entity under
17 subsection (1)(a) of this section, other than a refinery facility,
18 has the compliance obligation for the emissions associated with
19 natural gas delivered to the facility by a natural gas supplier and
20 the emissions associated with this delivered natural gas are not part
21 of the compliance obligation of the natural gas supplier.

22 (ii) The operator of a refinery facility that is a covered entity
23 under subsection (1)(a) of this section has a compliance obligation
24 equal to the sum of the refinery facility's reported emissions and
25 the emissions associated with the combustion of the fuel that the
26 refinery facility operator supplies.

27 (iii) The compliance obligation for a fuel supplier that is a
28 covered entity under subsection (1)(c) of this section must be
29 reduced by the total amount of the emissions associated with any fuel
30 obtained from a refinery facility as determined under (b)(ii) of this
31 subsection. In order for this compliance obligation to be reduced,
32 the fuel supplier must demonstrate that the applicable fuel was
33 obtained from a refinery facility that is a covered entity, in a
34 manner prescribed by the department by rule.

35 NEW SECTION. **Sec. 6.** REGISTRATION REQUIREMENTS FOR PROGRAM
36 PARTICIPATION. (1) All covered entities must register to participate
37 in the program, following procedures adopted by the department by
38 rule.

1 (2) Entities registering to participate in the program must
2 describe any direct or indirect affiliation with other registered
3 entities.

4 (3) A person responsible for greenhouse gas emissions that is not
5 a covered entity may voluntarily participate in the program by
6 registering as an opt-in entity. An opt-in entity must satisfy the
7 same registration requirements as covered entities. Once registered,
8 an opt-in entity is allowed to participate as a covered entity in
9 auctions and assume the same compliance obligation to surrender
10 compliance instruments equal to their emissions at the appointed
11 surrender dates. An opt-in entity may opt out of the program at the
12 end of any compliance period by providing written notice to the
13 department at least six months prior to the end of the compliance
14 period. The opt-in entity continues to have a compliance obligation
15 through the current compliance period.

16 (4) A person that is not covered by the program and is not a
17 covered entity or opt-in entity may voluntarily participate in the
18 program as a general market participant. General market participants
19 must meet all applicable registration requirements specified in rule.

20 (5) Tribal governments and federal agencies that are not covered
21 entities may elect to participate in the program as opt-in entities
22 or general market participants.

23 NEW SECTION. **Sec. 7.** ALLOWANCE DISTRIBUTION THROUGH AUCTIONS.

24 (1) The department shall distribute the allowances established in
25 section 4 of this act through auctions as provided in this section
26 and in rules adopted by the department. An allowance is not a
27 property right.

28 (2) The department shall hold a maximum of four auctions
29 annually. An auction may include allowances from the annual allowance
30 budget of the current year and allowances from the annual allowance
31 budgets from prior years that remained unsold at previous auctions.
32 The department must auction allowances from future annual allowance
33 budgets separately from allowances from current and previous annual
34 allowance budgets.

35 (3) The department shall engage a qualified, independent
36 contractor to run the auctions. The department shall also engage a
37 qualified financial services administrator to hold bid guarantees,
38 evaluate bid guarantees, and inform the department of the value of
39 bid guarantees once the bids are accepted.

1 (4) The department shall issue notice for an upcoming auction at
2 least ninety days prior to the auction. The auction must consist of a
3 single round of sealed bids with a three hour open window and must be
4 conducted through a secure online system.

5 (5) To help minimize allowance price volatility in the auction
6 and any secondary markets, the department shall adopt by rule an
7 auction floor price and a schedule for the floor price to increase by
8 a predetermined amount every year through 2026. The department may
9 not sell allowances at bids lower than the auction floor price. The
10 department's rules shall specify holding limits that determine the
11 maximum number of allowances that may be held for use or trade by a
12 registered entity at any one time.

13 (6) Auctions are open to covered entities, opt-in entities, and
14 general market participants that are registered entities in good
15 standing. The department shall adopt by rule the requirements for a
16 registered entity to register and participate in a given auction.

17 (a) Registered entities intending to participate in an auction
18 must submit an application to participate at least thirty days prior
19 to the auction. The application must include the documentation
20 required for review and approval by the department. A registered
21 entity is eligible to participate only after receiving a notice of
22 approval from the department or its designee.

23 (b) Each registered entity that elects to participate in the
24 auction must have a different representative. Only representatives
25 with an approved auction account are authorized to access the auction
26 platform to submit an application or confirm the intent to bid for
27 the registered entity, submit bids on behalf of the registered entity
28 during the bidding window, or to download reports specific to the
29 auction.

30 (c) A registered entity intending to participate in an auction
31 must submit to the financial services administrator a bid guarantee,
32 payable to the financial services administrator, in an amount greater
33 than or equal to the sum of the maximum value of the bids to be
34 submitted by the registered entity. The bid guarantee can be cash in
35 the form of a wire transfer, an irrevocable letter of credit from a
36 financial institution with a United States banking license, a bond
37 issued by a financial institution with a United States banking
38 license, or a security bond issued by an institution named in the
39 United States treasury department list of acceptable security
40 companies.

1 (7) To protect the integrity of the auctions, a registered entity
2 or group of registered entities with a direct corporate association
3 are subject to the following auction purchase limits:

4 (a) A covered entity or an opt-in entity may not buy more than
5 fifteen percent of the allowances offered during a single auction,
6 except as provided in subsection (8) of this section;

7 (b) A general market participant may not buy more than four
8 percent of the allowances offered during a single auction;

9 (c) No registered entity may purchase more than the entity's bid
10 guarantee; and

11 (d) No registered entity may purchase allowances that would
12 exceed the entity's holding limit at the time of the auction.

13 (8) A covered entity or opt-in entity with a compliance
14 obligation that exceeds fifteen percent of the annual allowance
15 budget may, subject to advance approval by the department, purchase
16 allowances beyond the allowance purchase limit in subsection (7)(a)
17 of this section, not to exceed the entity's proportionate share, on a
18 percentage basis, of the annual allowance budget plus ten percent of
19 the allowances available during a single auction. Approval to
20 purchase these additional allowances must be secured prior to the
21 auction and must be requested from the department at least thirty
22 days prior to the auction.

23 (9) Upon completion and verification of the auction results, the
24 financial services administrator shall notify winning bidders and
25 transfer the auction proceeds to the state treasurer for deposit in
26 the carbon pollution reduction account created in section 12 of this
27 act.

28 (10) The department shall adopt by rule provisions to guard
29 against bidder collusion and minimize the potential for market
30 manipulation. A registered entity may not release or disclose any
31 bidding information including: Intent to participate or refrain from
32 participation; auction approval status; intent to bid; bidding
33 strategy; bid price or bid quantity; or information on the bid
34 guarantee provided to the financial services administrator. The
35 department may cancel or restrict a previously approved auction
36 participation application or reject a new application if the
37 department determines that a registered entity has:

38 (a) Provided false or misleading facts;

39 (b) Withheld material information that could influence a decision
40 by the department;

- 1 (c) Violated any part of the auction rules;
- 2 (d) Violated registration requirements; or
- 3 (e) Violated any of the rules regarding the conduct of the
- 4 auction.

5 (11) Any cancellation or restriction approved by the department
6 may be permanent or for a specified number of auctions and the
7 cancellation or restriction imposed is in addition to any other
8 penalties, fines, and additional remedies available under the law.

9 (12) The department shall design allowance auctions so as to
10 allow, to the maximum extent practicable, linking with external
11 greenhouse gas emissions trading programs in other jurisdictions and
12 to facilitate the transfer of allowances when the state's program is
13 linked with other external greenhouse gas emissions trading programs.
14 The department may conduct auctions jointly with other jurisdictions
15 with which it has a linkage agreement under section 17 of this act.
16 For joint auctions, the financial services administrator, the market
17 monitor, and the auction administrator must be the same as the one
18 employed by those jurisdictions.

19 NEW SECTION. **Sec. 8.** ALLOWANCE PRICE CONTAINMENT RESERVE. (1)
20 At the start of the program, the department shall place four percent
21 of the total number of allowances available for 2017 to 2026 in the
22 allowance price containment reserve. The price containment reserve
23 must be designed as a mechanism to assist in containing compliance
24 costs for covered and opt-in entities in the event of unanticipated
25 high costs for compliance instruments.

26 (2) The department shall auction allowances from the allowance
27 price containment reserve once a quarter each year through reserve
28 sales, separate from the auction of other allowances. Allowances
29 unsold through the reserve auction must be made available again at
30 future reserve auctions.

31 (3) Only covered and opt-in entities may participate in the
32 auction of allowances from the allowance price containment reserve.

33 (4) The process for reserve auctions is the same as the process
34 outlined in section 7 of this act and the proceeds from reserve
35 auctions must be treated the same.

36 (5) The department shall by rule:

37 (a) Set the auction floor price for allowances from the allowance
38 price containment reserve in advance of the reserve auction. The
39 department shall set the auction floor price high enough to

1 incentivize direct emissions reductions. The department may choose to
2 establish multiple price tiers for the allowances from the allowance
3 price containment reserve;

4 (b) Establish the requirements and schedule for the allowance
5 price containment reserve auctions; and

6 (c) Establish the percent of allowances to be set aside for the
7 allowance price containment reserve after the compliance period
8 ending in 2026.

9 NEW SECTION. **Sec. 9.** OFFSET CREDITS. (1) The department shall
10 adopt by rule the protocols for establishing offset projects and
11 securing offset credits that can be used to meet a portion of a
12 covered entity's or opt-in entity's compliance obligation under
13 section 10 of this act.

14 (2) The protocols must require that offset projects result in
15 greenhouse gas emission reductions or removals from the atmosphere
16 that are real, quantifiable, permanent, verifiable, and enforceable,
17 and that would occur in addition to other existing requirements. The
18 offset protocols must, where available, use established criteria,
19 methods to determine baseline assumptions, emission factors, and
20 monitoring methods. The protocols must:

21 (a) Specify the amount of greenhouse gas emission reductions and
22 removals achieved by the offset project type, in relation to a
23 project baseline that estimates business-as-usual performance or
24 practices for the offset project type, and accounting for any
25 uncertainty in quantification protocols;

26 (b) Ensure greenhouse gas emission reductions and removals are
27 permanent as defined by the particular offset protocol, including the
28 length of time for which an offset project can generate offset
29 credits; and

30 (c) Specify the data collection and monitoring procedures
31 required for each offset project type.

32 (3) The department shall coordinate the review, development, and
33 approval of offset protocols with any jurisdiction to which
34 Washington has a linkage agreement pursuant to section 17 of this
35 act.

36 (4) Until January 1, 2021, an offset credit may only be created
37 for the following offset types and only if offset protocols have been
38 adopted by rule by the department:

1 (a) Projects that prevent greenhouse gas emissions through
2 anaerobic digestion of organic wastes;

3 (b) Projects that reduce emissions of ozone depleting substances;

4 (c) Projects that capture methane from mining and other resource
5 extraction and transmission projects; and

6 (d) Projects that sequester biogenic or atmospheric carbon
7 through forestry and agricultural practices. In reviewing,
8 developing, and approving offset protocols for forestry and
9 agricultural practices, the department must, in consultation with the
10 department of natural resources and the department of agriculture,
11 develop protocols unique to Washington and that accredit the widest
12 possible range of forestry and agriculture projects that sequester
13 carbon.

14 (5) An offset project proponent must apply to register a project
15 with the department within one year of commencing the project.

16 (6) The department shall submit a report to the legislature by
17 September 1, 2019, that describes any decision of the department to
18 expand or modify the eligible project categories starting in 2021.

19 (7) The department shall adopt rules setting out the criteria and
20 procedures for the recognition of offset credits as a method for
21 meeting a part of a compliance obligation by a covered entity. The
22 rules must incorporate the following criteria and limitations:

23 (a) The offset project proponent must be registered to conduct
24 business in Washington, or have a designated agent legally qualified
25 to receive service of process, and is responsible for all statements
26 and information required for recognition of the credit;

27 (b) A single offset credit must represent a reduction or removal
28 of one metric ton of carbon dioxide equivalent that results from a
29 clearly identified action or decision. A credit:

30 (i) May be created only for an offset project or activity that
31 commenced on or after January 1, 2016;

32 (ii) May be awarded only for the portion of the emission
33 reductions or removals that would not have occurred under the project
34 baseline;

35 (iii) Must not derive from emissions otherwise subject to a
36 compliance obligation under the program;

37 (iv) Must result from actions that are not already required by
38 law, regulation, court order, or legally binding agreement; and

39 (v) Is not allowed if the offset credit has been claimed in any
40 other external greenhouse gas emission trading program;

1 (c) The geographic boundary for an offset project must be within
2 the United States, Canada, or Mexico;

3 (d) The offset project's greenhouse gas reduction or removal must
4 be quantified and verified by an independent third-party verifier
5 accredited by the department or accredited by any jurisdiction with
6 which Washington has a linkage agreement pursuant to section 17 of
7 this act; and

8 (e) Offset credits generated from offset projects located in
9 Washington are not valid until approved by the department. Offset
10 credits for projects located outside of Washington are subject to
11 approval by Washington unless, through a linkage agreement,
12 responsibility for offset approval is shared across linked
13 jurisdictions.

14 (8) The offset credit must be registered and tracked as a
15 compliance instrument under section 20 of this act.

16 (9) All information on offset protocols, projects, and credits
17 must be made public and posted on the department's web site.

18 (10) The department shall invalidate offset credits if they are
19 found to be fraudulent through a process adopted by rule by the
20 department. The offset credit buyer is liable if the offset credits
21 are invalidated. If some or all of the offset credits are
22 invalidated, the covered or opt-in entity must, within six months of
23 that invalidation, surrender replacement credits or allowances to
24 meet its compliance obligation.

25 NEW SECTION. **Sec. 10.** COMPLIANCE REQUIREMENTS. (1) A covered or
26 opt-in entity has a compliance obligation for its emissions from each
27 three-year compliance period, except for the first compliance period
28 that will only cover emissions from July 1, 2016, through December
29 31, 2017.

30 (2) A covered or opt-in entity shall surrender a number of
31 compliance instruments equal to their total verified emissions as
32 reported in accordance with RCW 70.94.151 as follows:

33 (a) By November 1, 2018, all covered and opt-in entities shall
34 submit all of their compliance instruments for the first compliance
35 period.

36 (b) Beginning November 1, 2019, thirty percent of a covered or
37 opt-in entity's compliance obligation for the previous year's covered
38 emissions must be submitted annually on November 1st for the first
39 and second years of each three-year compliance period thereafter.

1 (c) Beginning November 1, 2021, and every three years thereafter
2 by November 1st, every covered and opt-in entity must submit
3 compliance instruments covering the remainder of their emissions for
4 the prior compliance period.

5 (d) Submission of allowances occurs through the transfer of
6 compliance instruments, on or before the surrender date, from the
7 holding account to the compliance account of the covered or opt-in
8 entity as described in section 20 of this act.

9 (3) The department must determine whether the covered or opt-in
10 entity submitted, by the specified surrender date, a sufficient
11 number of compliance instruments. A covered entity or opt-in entity
12 submitting insufficient compliance instruments to meet its compliance
13 obligation is subject to a penalty as provided in section 11 of this
14 act.

15 (4) Surrendered allowances must be from an allowance budget year
16 that is from the current year or any previous compliance year.

17 (5) An emission allowance may be surrendered in the same
18 compliance period in which it is created or in any future compliance
19 period. An emission allowance does not expire and may be banked by a
20 registered entity for future use.

21 (6) A covered or opt-in entity may not borrow an allowance from a
22 future allowance year to meet a current or past compliance
23 obligation.

24 (7) A compliance instrument representing an offset credit
25 provided by the covered or opt-in entity or opt-in entity pursuant to
26 section 9 of this act may be submitted to meet a compliance
27 obligation. A covered entity may submit offset credits in an amount
28 that does not exceed eight percent of the entity's compliance
29 obligation in a compliance period.

30 (8) Upon receipt by the department of all compliance instruments
31 surrendered by a covered entity or opt-in entity to meet its
32 compliance obligation, the department shall retire the allowances or
33 offset credits.

34 NEW SECTION. **Sec. 11.** ENFORCEMENT. (1) All covered and opt-in
35 entities are required to submit compliance instruments in a timely
36 manner to meet the entities' compliance obligations and shall comply
37 with all requirements for monitoring, reporting, holding, and
38 submitting emission allowances and other provisions of this chapter.

1 (2) If a covered or opt-in entity does not submit sufficient
2 allowances to meet its compliance obligation by the specified
3 surrender dates, a penalty of four allowances for every one allowance
4 that is missing must be submitted to the department within six
5 months. When a covered entity or opt-in entity reasonably believes
6 that it will be unable to meet a compliance obligation, the entity
7 shall immediately notify the department. Upon receiving notification,
8 the department shall issue an order requiring the entity to submit
9 the penalty allowances. Three of every four penalty allowances must
10 be offered by the department for purchase in future auctions. One of
11 the four allowances must be retired to fulfill the covered entity's
12 or opt-in entity's original compliance obligation.

13 (3) If a covered entity or opt-in entity fails to submit penalty
14 allowances as required by subsection (2) of this section, the
15 department may issue a civil penalty to the entity of up to ten
16 thousand dollars for each penalty allowance that is not submitted per
17 day. The department may also issue an order or issue a penalty of up
18 to ten thousand dollars per day per violation, or both, for failure
19 to comply with any provision of this chapter or the rules adopted
20 under this chapter. The order may include a plan and schedule for
21 coming into compliance.

22 (4) Except as provided in subsection (3) of this section, any
23 person that violates the terms of this chapter or an order issued
24 under this chapter incurs a penalty of up to ten thousand dollars per
25 day per violation for each day that the person does not comply. All
26 penalties must be deposited into the state general fund.

27 (5) Appeals of orders and penalties issued under this chapter
28 must be to the pollution control hearings board under chapter 43.21B
29 RCW.

30 (6) For the first compliance period, the department may reduce
31 the amount of the penalty by adjusting the monetary amount or the
32 number of penalty allowances described in subsections (2) and (3) of
33 this section.

34 NEW SECTION. **Sec. 12.** CARBON POLLUTION REDUCTION ACCOUNT. (1)
35 The carbon pollution reduction account is created in the state
36 treasury. All receipts from the auction of allowances paid under
37 sections 7 and 8 of this act, and other moneys directed to the
38 account by the legislature, must be deposited into the account.
39 Moneys in the account may only be spent after appropriation.

1 (2) Beginning in fiscal year 2017 and for each fiscal year
2 thereafter, the state treasurer shall distribute, at the start of
3 each quarter during each fiscal year, the moneys deposited into the
4 account during the prior quarter, as follows:

5 (a) Forty percent of the moneys, and additional moneys or a
6 lesser percentage as needed to equal but not exceed four hundred
7 million dollars in each fiscal year, deposited into the
8 sustainability account created in chapter (House Bill
9 No. /Senate Bill No.), Laws of 2015 to support
10 transportation projects with a priority for transit and other
11 projects that will reduce greenhouse gas emissions, and to support
12 transportation system maintenance and safety;

13 (b) Forty percent of the moneys, and additional moneys as needed
14 to equal at least three hundred eighty million dollars in each fiscal
15 year, deposited into the education legacy trust account created in
16 RCW 83.100.230;

17 (c) Ten percent of the moneys, and additional moneys as needed to
18 equal at least one hundred eight million dollars in each fiscal year,
19 deposited into the state general fund to implement the working
20 families tax rebate in RCW 82.08.0206;

21 (d) Two percent of the moneys, as needed to equal and not exceed
22 fifteen million five hundred thousand dollars in fiscal year 2017, as
23 needed to equal at least nineteen million five hundred thousand
24 dollars in fiscal year 2018, and as needed to equal at least twenty
25 million dollars in each fiscal year thereafter, deposited into the
26 Washington housing trust fund created in RCW 43.185.030;

27 (e) Two percent of the moneys, and additional moneys as needed to
28 equal at least twenty million dollars in each fiscal year, deposited
29 into the general fund for purpose of funding the carbon pollution
30 competitiveness tax credit, pursuant to section 14 of this act; and

31 (f) Two percent of the moneys, and additional moneys as needed to
32 equal at least twenty million dollars in each fiscal year, deposited
33 into the general fund to be appropriated to the department of
34 commerce for economic assistance to Washington rural businesses,
35 pursuant to section 16(2) of this act.

36 (3) Moneys remaining in the account must be expended for the
37 following purposes:

38 (a) The department's and other agencies' costs to support and
39 administer the program including but not limited to coordination of
40 regional auction allowance, tracking of emissions inventory,

1 monitoring and verification, market monitor contracting, and
2 stakeholder communication and outreach; and

3 (b) Investments in clean energy and other programs that achieve
4 the purposes of this chapter.

5 NEW SECTION. **Sec. 13.** CARBON POLLUTION COMPETITIVENESS TAX
6 CREDIT PERFORMANCE. This section is the tax preference performance
7 statement for the carbon pollution competitiveness tax credit in
8 section 14 of this act. The performance statement is only intended to
9 be used for subsequent evaluation of the tax preference. It is not
10 intended to create a private right of action by any party or be used
11 to determine eligibility for preferential tax treatment.

12 (1) The legislature categorizes this tax preference as one
13 intended to accomplish the general purpose indicated in RCW
14 82.32.808(2) (a) through (f).

15 (2) It is the legislature's specific public policy objective to
16 mitigate the impacts of compliance obligations for energy intense and
17 trade-exposed businesses that would experience significant
18 competitive disadvantage in selling manufactured products in other
19 countries due to the costs of compliance with the carbon pollution
20 reduction program.

21 (3) To measure the effectiveness of the credit provided in
22 section 14 of this act in achieving the public policy objectives
23 described in subsection (2) of this section, the joint legislative
24 audit and review committee must evaluate the following:

25 (a) The number of businesses that obtain a certificate from the
26 department of commerce;

27 (b) The change in total taxable income for taxpayers claiming the
28 credit under section 14 of this act;

29 (c) The change in total employment for taxpayers claiming the
30 credit under section 14 of this act; and

31 (d) For each calendar year, the total tax credits claimed under
32 section 14 of this act as a percentage of total taxable income for
33 taxpayers within taxable income categories.

34 (4) The information provided in the annual survey submitted by
35 the organization under RCW 82.32.585, tax data collected by the
36 department of revenue, and data collected by the employment security
37 department is intended to provide the informational basis for the
38 evaluation under subsection (3) of this section.

1 (5) In addition to the data sources described under subsection
2 (4) of this section, the joint legislative audit and review committee
3 may use any other data it deems necessary in performing the
4 evaluation under subsection (3) of this section.

5 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.04
6 RCW to read as follows:

7 CARBON POLLUTION COMPETITIVENESS TAX CREDIT. (1) In computing the
8 tax imposed under this chapter, a credit is allowed for each person
9 that possesses a valid certificate from the department of commerce
10 under section 15 of this act. A person must file a claim for credit
11 electronically using the department's web site.

12 (2) The credit is equal to fifty percent of the eligible costs
13 incurred to satisfy the compliance obligation under section 10 of
14 this act. The credit may not exceed the amount of tax otherwise due
15 under this chapter for the calendar year. Credit earned in one
16 calendar year may be carried over to be credited against taxes
17 incurred in a subsequent calendar year until used, except that no
18 credit may be claimed more than ten years from the end of the tax
19 reporting period in which the credit was earned. No refunds may be
20 granted for credits under this section.

21 (3) For any person claiming the credit who does not have a valid
22 certificate from the department of commerce, the department must
23 disallow the credit and declare the taxes against which the credit
24 was claimed to be immediately due and payable. The department must
25 assess interest on the taxes against which the credit was claimed,
26 and may assess penalties. Interest must be assessed at the rate
27 provided under chapter 82.32 RCW, retroactively to the date the
28 credit was claimed, and accrues until the taxes against which the
29 credit was claimed are repaid.

30 (4) Credits are available on a first-in-time basis. The
31 department must disallow any credits, or portion thereof, that would
32 cause the total amount of credits claimed under this section during
33 any calendar year to exceed the greater of twenty million dollars, or
34 the amount of funding transferred by the treasurer under section
35 12(2)(e) of this act. If this limitation is reached, the department
36 must provide notification on its web site that the annual statewide
37 limit has been reached. In addition, the department must provide
38 written notice to any person who has claimed tax credits in excess of
39 the limitation in this subsection. The notice must indicate the

1 amount of tax due and provide that the tax be paid within thirty days
2 from the date of the notice. The department may not assess penalties
3 and interest as provided in chapter 82.32 RCW on the amount due in
4 the initial notice if the amount due is paid by the due date
5 specified in the notice, or any extension thereof.

6 (5) A person claiming the credit provided in this section must
7 file a complete annual survey with the department under RCW
8 82.32.585.

9 (6) For the purposes of this section, "eligible costs" means the
10 costs of allowances, offset credits, or other compliance instruments
11 surrendered to the department of ecology under section 10 of this
12 act, where the person has a valid certificate from the department of
13 commerce at the time the compliance instruments are surrendered.

14 NEW SECTION. **Sec. 15.** CARBON POLLUTION COMPETITIVENESS
15 CERTIFICATE PROGRAM. (1) By January 31, 2016, the department of
16 commerce must adopt rules to establish:

17 (a) The criteria for identifying energy intense and trade-exposed
18 businesses that would experience significant competitive disadvantage
19 in selling manufactured products in other countries due to the costs
20 of compliance with the carbon pollution reduction program created in
21 section 3 of this act;

22 (b) The process for a business to apply to the department of
23 commerce for a certificate to be used to claim the tax credit
24 established under section 14 of this act, including the information
25 required to determine if the business meets the criteria; and

26 (c) The process for a business to renew the certificate every
27 five years.

28 (2) The department of commerce must issue a certificate to
29 businesses that meet the requirements of this section.

30 NEW SECTION. **Sec. 16.** ECONOMIC OPPORTUNITIES FOR WASHINGTON
31 FORESTRY AND RURAL COMMUNITIES. (1) Recognizing that Washington's
32 uniquely abundant forests are a significant factor in the state's
33 carbon cycle, that they sequester carbon, and that forest management
34 can be part of the solution to solving climate change, the department
35 shall seek opportunities to further reduce and remove carbon
36 emissions and to support the forestry sector through the management
37 of forest carbon.

1 (2) The department of commerce, working with the departments of
2 agriculture and natural resources, shall identify existing programs
3 or develop new programs to:

4 (a) Provide financial assistance to assist in creating or
5 expanding new market opportunities for Washington forest products;

6 (b) Help mitigate the impacts of the program on transporters of
7 wood and food products due to potential increased fuel costs; and

8 (c) Otherwise assist businesses in rural communities with any
9 potential disproportionate economic impacts of the program.

10 (3) The department shall work with the department of natural
11 resources in the development of offset protocols as called for in
12 section 9 (1) and (2) of this act that consider opportunities
13 including but not limited to:

14 (a) Reducing emissions through the additional use of wood
15 products in construction and expanded wood substitution
16 opportunities;

17 (b) Incentives for forest health treatments that reduce
18 deforestation risks;

19 (c) Programs to maintain or increase forest carbon stocks;

20 (d) Improving technical understanding of sequestration;

21 (e) Developing the requirements and exploring the opportunities
22 to develop offset projects that are recognized in other external
23 greenhouse gas emissions trading programs;

24 (f) Expanding transfer of development rights programs to reduce
25 conversion risk; and

26 (g) Supporting ecosystem service payment programs.

27 NEW SECTION. **Sec. 17.** LINKING TO OTHER CARBON MARKETS. (1) The
28 department shall seek to link with other jurisdictions with
29 established market-based carbon emissions reduction programs in order
30 to:

31 (a) Allow for the mutual use and recognition of compliance
32 instruments issued by Washington and other linked jurisdictions;

33 (b) Broaden the carbon market to provide Washington businesses
34 with greater flexibility and opportunities for reduced costs to meet
35 their compliance obligations;

36 (c) Enable allowance auctions to be held jointly and provide for
37 the use of a unified tracking system for compliance instruments;

38 (d) Enhance market security;

39 (e) Reduce program administration costs; and

1 (f) Provide consistent requirements for covered entities whose
2 operations span jurisdictional boundaries.

3 (2) The department is authorized to execute linkage agreements
4 with other jurisdictions with established market-based carbon
5 emissions reduction programs consistent with the requirements in this
6 chapter and any rule adopted by the department. The department must
7 adopt a rule prior to executing a linkage agreement. The rule must be
8 supported by peer-reviewed economic analysis of the impacts of the
9 linkage agreement. A linkage agreement must cover the following:

10 (a) Provisions related to quarterly auctions, including
11 requirements for eligibility for auction participation, the use of a
12 single auction provider to facilitate joint auctions, publication of
13 auction-related information, process for auction participation,
14 settlement for an auction, purchase limits by auction participant
15 type, bidding process, dates of auctions, and financial requirements;

16 (b) Provisions related to holding limits to ensure no entities in
17 any of the programs are disadvantaged relative to their counterparts
18 in the other jurisdictions;

19 (c) Other requirements such as greenhouse gas reporting and
20 verification, offset protocols, criteria and process, and supervision
21 and enforcement to prevent fraud, abuse, and market manipulation;

22 (d) Common program registry, electronic auction platform,
23 tracking systems for compliance instruments, monitoring of compliance
24 instruments, and auctions;

25 (e) Provisions to ensure coordinated administrative and technical
26 support;

27 (f) Provisions to share information collected and developed under
28 each individual jurisdiction's program, including confidential
29 information;

30 (g) Provisions for public notice and participation; and

31 (h) Provisions to collectively resolve differences, amend the
32 agreements, and delink or otherwise withdraw from the agreements.

33 (3) The state shall retain legal and policymaking authority over
34 its program design and enforcement.

35 NEW SECTION. **Sec. 18.** ALLOWANCE MARKET MONITORING AND
36 OVERSIGHT. (1) The department shall adopt by rule the processes
37 required to buy, sell, transfer, or surrender compliance instruments.

1 (2) The department shall contract with an independent
2 organization to provide the following services relating to the
3 functioning of the compliance instrument market:

4 (a) Creating a market monitoring and security plan;

5 (b) Reviewing auction and reserve sale procedures and protocols
6 to ensure fair and competitive auctions;

7 (c) Auditing and monitoring the auctions to assess the adherence
8 of participants and the auction operator to the adopted procedures
9 and protocols;

10 (d) Monitoring compliance instrument holding, transfer activity,
11 and secondary market behavior;

12 (e) Preparing reports on auction results, market activities, and
13 trends; and

14 (f) Reviewing program guidance documents, program rules, and
15 other policies to mitigate market risk and improve the efficiency of
16 the auctions and market activities.

17 (3) The department shall coordinate with existing state and
18 federal market regulatory agencies, including the United States
19 commodity futures trading commission, to ensure that all regulatory
20 requirements for conducting trading in allowances are met. The
21 department may consult with other jurisdictions administering
22 emissions trading programs to observe and track market participant
23 behavior across multiple emission trading venues.

24 (4) By July 1, 2016, the department shall create an independent
25 review committee composed of financial market professionals to
26 provide an independent assessment of the market monitoring functions
27 and performance of the program. This committee shall provide their
28 independent assessment to the department by July 1, 2018, and every
29 two years thereafter.

30 NEW SECTION. **Sec. 19.** CITIZEN ACCOUNTABILITY. (1) An economic
31 justice and environmental equity advisory committee is established in
32 the executive office of the governor. The governor must appoint the
33 members of the committee. Members of the committee must include
34 representatives from low-income citizens, communities of color,
35 front-line workers in fossil fuel dependent sectors from around the
36 state, and other communities that may be disproportionately impacted
37 by the program. The duty of the committee is to periodically evaluate
38 the socioeconomic effects of the state's carbon emission reduction
39 policies. The committee shall evaluate the potential for the program

1 to disproportionately impact low-income and other vulnerable
2 communities and provide advice to the governor and the appropriate
3 fiscal and policy committees of the legislature on the expenditure of
4 receipts from allowance auctions if adverse impacts are identified by
5 the committee or the department.

6 (2) To inform the work of the committee, the department shall
7 conduct a study, in consultation with the department of health and
8 using existing geospatial methods, to identify communities of color
9 and other communities that may be subject to disproportionate impacts
10 from carbon pollution, related changes to the climate, or from
11 actions intended to reduce carbon pollution.

12 (3) The committee shall report on its evaluation and findings to
13 the appropriate fiscal and policy committees of the legislature and
14 to the governor by July 1, 2017, and every two years thereafter.

15 NEW SECTION. **Sec. 20.** ALLOWANCE TRADING AND TRACKING COMPLIANCE
16 INSTRUMENTS. (1) The department shall use a secure, online electronic
17 tracking system to: Register entities in the state program; issue
18 compliance instruments; track ownership of compliance instruments;
19 enable and record compliance instrument transfers; facilitate program
20 compliance; and support market oversight. The department shall use an
21 existing market tracking system in use by potential linked
22 jurisdictions.

23 (2) Covered and opt-in entities are each allowed two accounts:

24 (a) A compliance account where the allowances are transferred to
25 the department for retirement. Allowances in compliance accounts may
26 not be sold, traded, or transferred to another account or person.

27 (b) A holding account that is used when a registered entity is
28 interested or potentially interested in trading allowances.
29 Allowances in holding accounts can be bought, sold, or traded. The
30 amount of allowances a registered entity may have in its holding
31 account is constrained to the holding limit.

32 (3) Registered general market participants are each allowed one
33 account, to hold, trade, sell, or surrender allowances.

34 (4) The department shall maintain an account for the purpose of
35 retiring allowances surrendered by registered entities.

36 (5) The department may establish or use other existing tracking
37 systems as needed for a functioning carbon market.

1 NEW SECTION. **Sec. 21.** PUBLIC RECORDS. In the administration of
2 the program required by this chapter, the department shall ensure the
3 protection from public disclosure of financial, commercial, and
4 proprietary information whose release would place the registered
5 entity submitting the information at a competitive disadvantage. The
6 department shall require any of its contractors working on the
7 program to comply with the disclosure requirements of RCW 42.56.070
8 and 42.56.270. Nothing in this chapter affects the department's
9 ability to release air quality data or emissions data pursuant to RCW
10 70.94.205.

11 NEW SECTION. **Sec. 22.** RULES. (1) The department may adopt rules
12 to implement the provisions of this chapter. To the extent possible
13 and consistent with this chapter, the rules adopted by the department
14 must be compatible with regulations adopted by other external
15 greenhouse gas emissions trading programs to facilitate linkage
16 agreements between these programs. The department must periodically
17 review and, as necessary, update its rules to ensure compatibility
18 with carbon market programs in linked jurisdictions.

19 (2) The department shall adopt emergency rules pursuant to RCW
20 34.05.350 for initial implementation of the program, to implement the
21 state omnibus appropriations act for the 2015-2017 fiscal biennium,
22 and to ensure that reporting and other program requirements are
23 determined early for the purpose of program design and early notice
24 to registered entities with a compliance obligation under the
25 program.

26 NEW SECTION. **Sec. 23.** The department shall evaluate and report
27 on the implementation of the program created in section 3 of this act
28 including a review of progress on emission reductions and other
29 observed benefits and costs of the program. The department shall
30 submit the report, along with any recommendations for changes to the
31 program, to the governor and the appropriate fiscal and policy
32 committees of the legislature by November 1, 2016, and every two
33 years thereafter.

34 **Sec. 24.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
35 2014 c 144 s 6 are each reenacted and amended to read as follows:

36 The following financial, commercial, and proprietary information
37 is exempt from disclosure under this chapter:

1 (1) Valuable formulae, designs, drawings, computer source code or
2 object code, and research data obtained by any agency within five
3 years of the request for disclosure when disclosure would produce
4 private gain and public loss;

5 (2) Financial information supplied by or on behalf of a person,
6 firm, or corporation for the purpose of qualifying to submit a bid or
7 proposal for (a) a ferry system construction or repair contract as
8 required by RCW 47.60.680 through 47.60.750 or (b) highway
9 construction or improvement as required by RCW 47.28.070;

10 (3) Financial and commercial information and records supplied by
11 private persons pertaining to export services provided under chapters
12 43.163 and 53.31 RCW, and by persons pertaining to export projects
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by
15 businesses or individuals during application for loans or program
16 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
17 43.168 RCW, or during application for economic development loans or
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports,
20 and any information produced or obtained in evaluating or examining a
21 business and industrial development corporation organized or seeking
22 certification under chapter 31.24 RCW;

23 (6) Financial and commercial information supplied to the state
24 investment board by any person when the information relates to the
25 investment of public trust or retirement funds and when disclosure
26 would result in loss to such funds or in private loss to the
27 providers of this information;

28 (7) Financial and valuable trade information under RCW 51.36.120;

29 (8) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the clean Washington
31 center in applications for, or delivery of, program services under
32 chapter 70.95H RCW;

33 (9) Financial and commercial information requested by the public
34 stadium authority from any person or organization that leases or uses
35 the stadium and exhibition center as defined in RCW 36.102.010;

36 (10)(a) Financial information, including but not limited to
37 account numbers and values, and other identification numbers supplied
38 by or on behalf of a person, firm, corporation, limited liability
39 company, partnership, or other entity related to an application for a
40 horse racing license submitted pursuant to RCW 67.16.260(1)(b),

1 marijuana producer, processor, or retailer license, liquor license,
2 gambling license, or lottery retail license;

3 (b) Internal control documents, independent auditors' reports and
4 financial statements, and supporting documents: (i) Of house-banked
5 social card game licensees required by the gambling commission
6 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
7 by tribes with an approved tribal/state compact for class III gaming;

8 (11) Proprietary data, trade secrets, or other information that
9 relates to: (a) A vendor's unique methods of conducting business; (b)
10 data unique to the product or services of the vendor; or (c)
11 determining prices or rates to be charged for services, submitted by
12 any vendor to the department of social and health services for
13 purposes of the development, acquisition, or implementation of state
14 purchased health care as defined in RCW 41.05.011;

15 (12)(a) When supplied to and in the records of the department of
16 commerce:

17 (i) Financial and proprietary information collected from any
18 person and provided to the department of commerce pursuant to RCW
19 43.330.050(8); and

20 (ii) Financial or proprietary information collected from any
21 person and provided to the department of commerce or the office of
22 the governor in connection with the siting, recruitment, expansion,
23 retention, or relocation of that person's business and until a siting
24 decision is made, identifying information of any person supplying
25 information under this subsection and the locations being considered
26 for siting, relocation, or expansion of a business;

27 (b) When developed by the department of commerce based on
28 information as described in (a)(i) of this subsection, any work
29 product is not exempt from disclosure;

30 (c) For the purposes of this subsection, "siting decision" means
31 the decision to acquire or not to acquire a site;

32 (d) If there is no written contact for a period of sixty days to
33 the department of commerce from a person connected with siting,
34 recruitment, expansion, retention, or relocation of that person's
35 business, information described in (a)(ii) of this subsection will be
36 available to the public under this chapter;

37 (13) Financial and proprietary information submitted to or
38 obtained by the department of ecology or the authority created under
39 chapter 70.95N RCW to implement chapter 70.95N RCW;

1 (14) Financial, commercial, operations, and technical and
2 research information and data submitted to or obtained by the life
3 sciences discovery fund authority in applications for, or delivery
4 of, grants under chapter 43.350 RCW, to the extent that such
5 information, if revealed, would reasonably be expected to result in
6 private loss to the providers of this information;

7 (15) Financial and commercial information provided as evidence to
8 the department of licensing as required by RCW 19.112.110 or
9 19.112.120, except information disclosed in aggregate form that does
10 not permit the identification of information related to individual
11 fuel licensees;

12 (16) Any production records, mineral assessments, and trade
13 secrets submitted by a permit holder, mine operator, or landowner to
14 the department of natural resources under RCW 78.44.085;

15 (17)(a) Farm plans developed by conservation districts, unless
16 permission to release the farm plan is granted by the landowner or
17 operator who requested the plan, or the farm plan is used for the
18 application or issuance of a permit;

19 (b) Farm plans developed under chapter 90.48 RCW and not under
20 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
21 to RCW 42.56.610 and 90.64.190;

22 (18) Financial, commercial, operations, and technical and
23 research information and data submitted to or obtained by a health
24 sciences and services authority in applications for, or delivery of,
25 grants under RCW 35.104.010 through 35.104.060, to the extent that
26 such information, if revealed, would reasonably be expected to result
27 in private loss to providers of this information;

28 (19) Information gathered under chapter 19.85 RCW or RCW
29 34.05.328 that can be identified to a particular business;

30 (20) Financial and commercial information submitted to or
31 obtained by the University of Washington, other than information the
32 university is required to disclose under RCW 28B.20.150, when the
33 information relates to investments in private funds, to the extent
34 that such information, if revealed, would reasonably be expected to
35 result in loss to the University of Washington consolidated endowment
36 fund or to result in private loss to the providers of this
37 information; ((and))

38 (21) Market share data submitted by a manufacturer under RCW
39 70.95N.190(4); ((and))

1 (22) Financial information supplied to the department of
2 financial institutions or to a portal under RCW 21.20.883, when filed
3 by or on behalf of an issuer of securities for the purpose of
4 obtaining the exemption from state securities registration for small
5 securities offerings provided under RCW 21.20.880 or when filed by or
6 on behalf of an investor for the purpose of purchasing such
7 securities; and

8 (23) Financial, commercial, and proprietary information submitted
9 to the departments of ecology and commerce pursuant to chapter 70.--
10 RCW (the new chapter created in section 32 of this act) and
11 consistent with section 21 of this act.

12 **Sec. 25.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
13 read as follows:

14 (1) The hearings board shall only have jurisdiction to hear and
15 decide appeals from the following decisions of the department, the
16 director, local conservation districts, the air pollution control
17 boards or authorities as established pursuant to chapter 70.94 RCW,
18 local health departments, the department of natural resources, the
19 department of fish and wildlife, the parks and recreation commission,
20 and authorized public entities described in chapter 79.100 RCW:

21 (a) Civil penalties imposed pursuant to RCW 18.104.155,
22 70.94.431, 70.105.080, 70.107.050, section 11 of this act, 76.09.170,
23 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
24 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
26 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 11 of this act,
27 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

28 (c) A final decision by the department or director made under
29 chapter 183, Laws of 2009.

30 (d) Except as provided in RCW 90.03.210(2), the issuance,
31 modification, or termination of any permit, certificate, or license
32 by the department or any air authority in the exercise of its
33 jurisdiction, including the issuance or termination of a waste
34 disposal permit, the denial of an application for a waste disposal
35 permit, the modification of the conditions or the terms of a waste
36 disposal permit, or a decision to approve or deny an application for
37 a solid waste permit exemption under RCW 70.95.300.

38 (e) Decisions of local health departments regarding the grant or
39 denial of solid waste permits pursuant to chapter 70.95 RCW.

1 (f) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70.95J.080.

4 (g) Decisions of the department regarding waste-derived
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
6 decisions of the department regarding waste-derived soil amendments
7 under RCW 70.95.205.

8 (h) Decisions of local conservation districts related to the
9 denial of approval or denial of certification of a dairy nutrient
10 management plan; conditions contained in a plan; application of any
11 dairy nutrient management practices, standards, methods, and
12 technologies to a particular dairy farm; and failure to adhere to the
13 plan review and approval timelines in RCW 90.64.026.

14 (i) Any other decision by the department or an air authority
15 which pursuant to law must be decided as an adjudicative proceeding
16 under chapter 34.05 RCW.

17 (j) Decisions of the department of natural resources, the
18 department of fish and wildlife, and the department that are
19 reviewable under chapter 76.09 RCW, and the department of natural
20 resources' appeals of county, city, or town objections under RCW
21 76.09.050(7).

22 (k) Forest health hazard orders issued by the commissioner of
23 public lands under RCW 76.06.180.

24 (l) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW.

27 (m) Decisions of the department of natural resources that are
28 reviewable under RCW 78.44.270.

29 (n) Decisions of an authorized public entity under RCW 79.100.010
30 to take temporary possession or custody of a vessel or to contest the
31 amount of reimbursement owed that are reviewable by the hearings
32 board under RCW 79.100.120.

33 (2) The following hearings shall not be conducted by the hearings
34 board:

35 (a) Hearings required by law to be conducted by the shorelines
36 hearings board pursuant to chapter 90.58 RCW.

37 (b) Hearings conducted by the department pursuant to RCW
38 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
39 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110
2 and 90.44.220.

3 (d) Hearings conducted by the department to adopt, modify, or
4 repeal rules.

5 (3) Review of rules and regulations adopted by the hearings board
6 shall be subject to review in accordance with the provisions of the
7 administrative procedure act, chapter 34.05 RCW.

8 **Sec. 26.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
9 read as follows:

10 (1) The hearings board shall only have jurisdiction to hear and
11 decide appeals from the following decisions of the department, the
12 director, local conservation districts, the air pollution control
13 boards or authorities as established pursuant to chapter 70.94 RCW,
14 local health departments, the department of natural resources, the
15 department of fish and wildlife, the parks and recreation commission,
16 and authorized public entities described in chapter 79.100 RCW:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155,
18 70.94.431, 70.105.080, 70.107.050, section 11 of this act, 76.09.170,
19 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
20 90.56.310, 90.56.330, and 90.64.102.

21 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
22 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 11 of this act,
23 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

24 (c) Except as provided in RCW 90.03.210(2), the issuance,
25 modification, or termination of any permit, certificate, or license
26 by the department or any air authority in the exercise of its
27 jurisdiction, including the issuance or termination of a waste
28 disposal permit, the denial of an application for a waste disposal
29 permit, the modification of the conditions or the terms of a waste
30 disposal permit, or a decision to approve or deny an application for
31 a solid waste permit exemption under RCW 70.95.300.

32 (d) Decisions of local health departments regarding the grant or
33 denial of solid waste permits pursuant to chapter 70.95 RCW.

34 (e) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70.95J.080.

37 (f) Decisions of the department regarding waste-derived
38 fertilizer or micronutrient fertilizer under RCW 15.54.820, and

1 decisions of the department regarding waste-derived soil amendments
2 under RCW 70.95.205.

3 (g) Decisions of local conservation districts related to the
4 denial of approval or denial of certification of a dairy nutrient
5 management plan; conditions contained in a plan; application of any
6 dairy nutrient management practices, standards, methods, and
7 technologies to a particular dairy farm; and failure to adhere to the
8 plan review and approval timelines in RCW 90.64.026.

9 (h) Any other decision by the department or an air authority
10 which pursuant to law must be decided as an adjudicative proceeding
11 under chapter 34.05 RCW.

12 (i) Decisions of the department of natural resources, the
13 department of fish and wildlife, and the department that are
14 reviewable under chapter 76.09 RCW, and the department of natural
15 resources' appeals of county, city, or town objections under RCW
16 76.09.050(7).

17 (j) Forest health hazard orders issued by the commissioner of
18 public lands under RCW 76.06.180.

19 (k) Decisions of the department of fish and wildlife to issue,
20 deny, condition, or modify a hydraulic project approval permit under
21 chapter 77.55 RCW.

22 (l) Decisions of the department of natural resources that are
23 reviewable under RCW 78.44.270.

24 (m) Decisions of an authorized public entity under RCW 79.100.010
25 to take temporary possession or custody of a vessel or to contest the
26 amount of reimbursement owed that are reviewable by the hearings
27 board under RCW 79.100.120.

28 (2) The following hearings shall not be conducted by the hearings
29 board:

30 (a) Hearings required by law to be conducted by the shorelines
31 hearings board pursuant to chapter 90.58 RCW.

32 (b) Hearings conducted by the department pursuant to RCW
33 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
34 90.44.180.

35 (c) Appeals of decisions by the department under RCW 90.03.110
36 and 90.44.220.

37 (d) Hearings conducted by the department to adopt, modify, or
38 repeal rules.

1 (3) Review of rules and regulations adopted by the hearings board
2 shall be subject to review in accordance with the provisions of the
3 administrative procedure act, chapter 34.05 RCW.

4 **Sec. 27.** RCW 70.235.010 and 2010 c 146 s 1 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Carbon dioxide equivalents" means a metric measure used to
9 compare the emissions from various greenhouse gases based upon their
10 global warming potential.

11 (2) "Climate advisory team" means the stakeholder group formed in
12 response to executive order 07-02.

13 (3) "Climate impacts group" means the University of Washington's
14 climate impacts group.

15 (4) "Department" means the department of ecology.

16 (5) "Director" means the director of the department.

17 (6) "Greenhouse gas" and "greenhouse gases" includes carbon
18 dioxide, methane, nitrogen trifluoride nitrous oxide,
19 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, other
20 fluorinated greenhouse gases, and any other gas or gases designated
21 by the department by rule.

22 (7) "Person" means an individual, partnership, franchise holder,
23 association, corporation, a state, a city, a county, or any
24 subdivision or instrumentality of the state.

25 (8) "Program" means the department's climate change program.

26 (~~(9) "Western climate initiative" means the collaboration of~~
27 ~~states, Canadian provinces, Mexican states, and tribes to design a~~
28 ~~multisector market-based mechanism as directed under the western~~
29 ~~regional climate action initiative signed by the governor on February~~
30 ~~22, 2007.~~)

31 **Sec. 28.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
32 read as follows:

33 (1)(a) The state shall limit emissions of greenhouse gases to
34 achieve the following emission reductions for Washington state:

35 (i) By 2020, reduce overall emissions of greenhouse gases in the
36 state to ~~((1990 levels))~~ 88.4 million metric tons of carbon dioxide
37 equivalent;

1 (ii) By 2035, reduce overall emissions of greenhouse gases in the
2 state to (~~twenty five percent below 1990 levels~~) 66.3 million
3 metric tons of carbon dioxide equivalent;

4 (iii) By 2050, the state will do its part to reach global climate
5 stabilization levels by reducing overall emissions to (~~fifty percent~~
6 ~~below 1990 levels, or seventy percent below the state's expected~~
7 ~~emissions that year~~) 44.2 million metric tons of carbon dioxide
8 equivalent.

9 (b) By December 1, 2008, the department shall submit a greenhouse
10 gas reduction plan for review and approval to the legislature,
11 describing those actions necessary to achieve the emission reductions
12 in (a) of this subsection by using existing statutory authority and
13 any additional authority granted by the legislature. Actions taken
14 using existing statutory authority may proceed prior to approval of
15 the greenhouse gas reduction plan.

16 (c) Except where explicitly stated otherwise, nothing in chapter
17 14, Laws of 2008 limits any state agency authorities as they existed
18 prior to June 12, 2008.

19 (d) Consistent with this directive, the department shall take the
20 following actions:

21 (i) Develop and implement a system for monitoring and reporting
22 emissions of greenhouse gases as required under RCW 70.94.151; and

23 (ii) Track progress toward meeting the emission reductions
24 established in this subsection, including the results from policies
25 currently in effect that have been previously adopted by the state
26 and policies adopted in the future, and report on that progress.

27 (2) By December 31st of each even-numbered year beginning in
28 2010, the department and the department of (~~community, trade, and~~
29 ~~economic development~~) commerce shall report to the governor and the
30 appropriate committees of the senate and house of representatives the
31 total emissions of greenhouse gases for the preceding two years, and
32 totals in each major source sector. The department shall ensure the
33 reporting rules adopted under RCW 70.94.151 allow it to develop a
34 comprehensive inventory of emissions of greenhouse gases from all
35 significant sectors of the Washington economy.

36 (3) Except for purposes of reporting, emissions of carbon dioxide
37 from industrial combustion of biomass in the form of fuel wood, wood
38 waste, wood by-products, and wood residuals shall not be considered a
39 greenhouse gas as long as the region's silvicultural sequestration
40 capacity is maintained or increased.

1 **Sec. 29.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to
2 read as follows:

3 (1) The board of any activated authority or the department, may
4 classify air contaminant sources, by ordinance, resolution, rule or
5 regulation, which in its judgment may cause or contribute to air
6 pollution, according to levels and types of emissions and other
7 characteristics which cause or contribute to air pollution, and may
8 require registration or reporting or both for any such class or
9 classes. Classifications made pursuant to this section may be for
10 application to the area of jurisdiction of such authority, or the
11 state as a whole or to any designated area within the jurisdiction,
12 and shall be made with special reference to effects on health,
13 economic and social factors, and physical effects on property.

14 (2) Except as provided in subsection (3) of this section, any
15 person operating or responsible for the operation of air contaminant
16 sources of any class for which the ordinances, resolutions, rules or
17 regulations of the department or board of the authority, require
18 registration or reporting shall register therewith and make reports
19 containing information as may be required by such department or board
20 concerning location, size and height of contaminant outlets,
21 processes employed, nature of the contaminant emission and such other
22 information as is relevant to air pollution and available or
23 reasonably capable of being assembled. In the case of emissions of
24 greenhouse gases as defined in RCW 70.235.010 the department shall
25 adopt rules requiring reporting of those emissions. The department or
26 board may require that such registration or reporting be accompanied
27 by a fee, and may determine the amount of such fee for such class or
28 classes: PROVIDED, That the amount of the fee shall only be to
29 compensate for the costs of administering such registration or
30 reporting program which shall be defined as initial registration and
31 annual or other periodic reports from the source owner providing
32 information directly related to air pollution registration, on-site
33 inspections necessary to verify compliance with registration
34 requirements, data storage and retrieval systems necessary for
35 support of the registration program, emission inventory reports and
36 emission reduction credits computed from information provided by
37 sources pursuant to registration program requirements, staff review,
38 including engineering or other reliable analysis for accuracy and
39 currentness, of information provided by sources pursuant to
40 registration program requirements, clerical and other office support

1 provided in direct furtherance of the registration program, and
2 administrative support provided in directly carrying out the
3 registration program: PROVIDED FURTHER, That any such registration
4 made with either the board or the department shall preclude a further
5 registration and reporting with any other board or the department,
6 except that emissions of greenhouse gases as defined in RCW
7 70.235.010 must be reported as required under subsection (5) of this
8 section.

9 All registration program and reporting fees collected by the
10 department shall be deposited in the air pollution control account.
11 All registration program fees collected by the local air authorities
12 shall be deposited in their respective treasuries.

13 (3) If a registration or report has been filed for a grain
14 warehouse or grain elevator as required under this section,
15 registration, reporting, or a registration program fee shall not,
16 after January 1, 1997, again be required under this section for the
17 warehouse or elevator unless the capacity of the warehouse or
18 elevator as listed as part of the license issued for the facility has
19 been increased since the date the registration or reporting was last
20 made. If the capacity of the warehouse or elevator listed as part of
21 the license is increased, any registration or reporting required for
22 the warehouse or elevator under this section must be made by the date
23 the warehouse or elevator receives grain from the first harvest
24 season that occurs after the increase in its capacity is listed in
25 the license.

26 This subsection does not apply to a grain warehouse or grain
27 elevator if the warehouse or elevator handles more than ten million
28 bushels of grain annually.

29 (4) For the purposes of subsection (3) of this section:

30 (a) A "grain warehouse" or "grain elevator" is an establishment
31 classified in standard industrial classification (SIC) code 5153 for
32 wholesale trade for which a license is required and includes, but is
33 not limited to, such a licensed facility that also conducts cleaning
34 operations for grain;

35 (b) A "license" is a license issued by the department of
36 agriculture licensing a facility as a grain warehouse or grain
37 elevator under chapter 22.09 RCW or a license issued by the federal
38 government licensing a facility as a grain warehouse or grain
39 elevator for purposes similar to those of licensure for the facility
40 under chapter 22.09 RCW; and

1 (c) "Grain" means a grain or a pulse.

2 (5)(a) The department shall adopt rules requiring persons to
3 report emissions of greenhouse gases as defined in RCW 70.235.010,
4 and supporting data, where those emissions from a single facility,
5 ~~((source, or site,))~~ or from electricity, fossil fuels ~~((sold))~~, or
6 carbon dioxide supplied in Washington by a single supplier, meet or
7 exceed ten thousand metric tons of carbon dioxide equivalent
8 annually. The ~~((department may phase in the requirement to report
9 greenhouse gas emissions until the reporting threshold in this
10 subsection is met, which must occur by January 1, 2012))~~ rules
11 adopted by the department must support implementation of the program
12 created in section 3 of this act. In addition, the rules must require
13 that:

14 (i) Emissions of greenhouse gases resulting from the combustion
15 of fossil fuels be reported separately from emissions of greenhouse
16 gases resulting from the combustion of biomass; and

17 ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each
18 annual report must include emissions data for the preceding calendar
19 year and must be submitted to the department by October 31st of the
20 year in which the report is due. However, starting in 2011, a person
21 who is required to report greenhouse gas emissions to the United
22 States environmental protection agency under 40 C.F.R. Part 98, as
23 adopted on September 22, 2009, must submit the report required under
24 this section to the department concurrent with the submission to the
25 United States environmental protection agency. Except as otherwise
26 provided in this section, the data for emissions in Washington and
27 any corrections thereto that are reported to the United States
28 environmental protection agency must be the emissions data reported
29 to the department(~~;~~ and

30 ~~((iii) Emissions of carbon dioxide associated with the complete
31 combustion or oxidation of liquid motor vehicle fuel, special fuel,
32 or aircraft fuel that is sold in Washington where the annual
33 emissions associated with that combustion or oxidation equal or
34 exceed ten thousand metric tons be reported to the department. Each
35 person who is required to file periodic tax reports of motor vehicle
36 fuel sales under RCW 82.36.031 or special fuel sales under RCW
37 82.38.150, or each distributor of aircraft fuel required to file
38 periodic tax reports under RCW 82.42.040 must report to the
39 department the annual emissions of carbon dioxide from the complete
40 combustion or oxidation of the fuels listed in those reports as sold~~

1 in the state of Washington. The department shall not require
2 suppliers to use additional data to calculate greenhouse gas
3 emissions other than the data the suppliers report to the department
4 of licensing. The rules may allow this information to be aggregated
5 when reported to the department. The department and the department of
6 licensing shall enter into an interagency agreement to ensure
7 proprietary and confidential information is protected if the
8 departments share reported information. Any proprietary or
9 confidential information exempt from disclosure when reported to the
10 department of licensing is exempt from disclosure when shared by the
11 department of licensing with the department under this provision)).
12 Electric power entities and persons filing an abbreviated report must
13 submit their annual report for the preceding year by June 1st.

14 (b)(i) (~~Except as otherwise provided in this subsection, the~~
15 ~~rules adopted by the department under (a) of this subsection must be~~
16 ~~consistent with the regulations adopted by the United States~~
17 ~~environmental protection agency in 40 C.F.R. Part 98 on September 22,~~
18 ~~2009)) The department may allow facility operators without a
19 compliance obligation under section 10 of this act to submit an
20 abbreviated report. Abbreviated reports must be consistent with full
21 reports, but may use less stringent monitoring, calculation, and
22 verification methods.~~

23 (ii) The department may by rule include additional gases to the
24 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
25 been designated as a greenhouse gas by the United States congress
26 (~~(or)~~), by the United States environmental protection agency, or
27 included in external greenhouse gas emission trading programs where
28 Washington has a linkage agreement in effect pursuant to section 17
29 of this act. Prior to including additional gases to the definition of
30 "greenhouse gas" in RCW 70.235.010, the department shall notify the
31 appropriate committees of the legislature. (~~Decisions to amend the~~
32 ~~rule to include additional gases must be made prior to December 1st~~
33 ~~of any year and the amended rule may not take effect before the end~~
34 ~~of the regular legislative session in the next year.))~~

35 (iii) The department may by rule exempt persons who are required
36 to report greenhouse gas emissions to the United States environmental
37 protection agency and who emit less than ten thousand metric tons
38 carbon dioxide equivalent annually.

1 (iv) The department must establish a methodology for persons who
2 are not required to report under this section to voluntarily report
3 their greenhouse gas emissions.

4 (c)(i) The department shall review and if necessary update its
5 rules whenever:

6 (A) The United States environmental protection agency adopts
7 final amendments to 40 C.F.R. Part 98 to ensure consistency with
8 federal reporting requirements for emissions of greenhouse gases; or

9 (B) Needed to ensure consistency with emissions reporting
10 requirements for jurisdictions with a linkage agreement pursuant to
11 section 17 of this act. ((However,))

12 (ii) The department shall not amend its rules in a manner that
13 conflicts with ~~((a) of))~~ this ~~((subsection))~~ section.

14 (d) The department shall share any reporting information reported
15 to it with the local air authority in which the person reporting
16 under the rules adopted by the department operates.

17 (e) The fee provisions in subsection (2) of this section apply to
18 reporting of emissions of greenhouse gases. Persons required to
19 report under (a) of this subsection who fail to report or pay the fee
20 required in subsection (2) of this section are subject to enforcement
21 penalties under this chapter. The department shall enforce the
22 reporting rule requirements ~~((unless it approves a local air~~
23 ~~authority's request to enforce the requirements for persons operating~~
24 ~~within the authority's jurisdiction. However, neither the department~~
25 ~~nor a local air authority approved under this section are authorized~~
26 ~~to assess enforcement penalties on persons required to report under~~
27 ~~(a) of this subsection until six months after the department adopts~~
28 ~~its reporting rule in 2010)).~~ When a person that holds a compliance
29 obligation under section 10 of this act fails to submit an emission
30 data report or fails to obtain a positive emissions data verification
31 statement in accordance with (g)(iii) of this subsection, the
32 department must attempt to provide assistance to the person. If the
33 person refuses assistance from the department, the department may
34 develop an assigned emissions level for that person.

35 (f) The energy facility site evaluation council shall,
36 simultaneously with the department, adopt rules that impose
37 greenhouse gas reporting requirements in site certifications on
38 owners or operators of a facility permitted by the energy facility
39 site evaluation council. The greenhouse gas reporting requirements
40 imposed by the energy facility site evaluation council must be the

1 same as the greenhouse gas reporting requirements imposed by the
2 department. The department shall share any information reported to it
3 from facilities permitted by the energy facility site evaluation
4 council with the council, including notice of a facility that has
5 failed to report as required. The energy facility site evaluation
6 council shall contract with the department to monitor the reporting
7 requirements adopted under this section.

8 (g) ~~The ((inclusion or failure to include any person, source,~~
9 ~~classes of persons or sources, or types of emissions of greenhouse~~
10 ~~gases into the department's rules for reporting under this section~~
11 ~~does not indicate whether such a person, source, or category is~~
12 ~~appropriate for inclusion in state, regional, or national greenhouse~~
13 ~~gas reduction programs or strategies. Furthermore, aircraft fuel~~
14 ~~purchased in the state may not be considered equivalent to aircraft~~
15 ~~fuel combusted in the state)) department must establish by rule the~~
16 ~~methods of verifying the accuracy of emissions reports.~~

17 (i) Verification requirements apply to persons required to report
18 under (a) of this subsection with emissions that equal or exceed
19 twenty-five thousand metric tons of carbon dioxide equivalent
20 emissions, including carbon dioxide from biomass-derived fuels, or to
21 persons who have a compliance obligation under section 10 of this act
22 in any year of the current compliance period.

23 (ii) Persons subject to verification must obtain third-party
24 verification services for that report from a verification body
25 accredited by the department. The verification body must not have a
26 conflict of interest when verifying the reporting person's report.

27 (iii) Persons are responsible for ensuring that verification
28 services are completed and verification statements must be submitted
29 by the verification body to the department by September 1st each year
30 for emissions data for the preceding calendar year.

31 (h)(i) The definitions in RCW 70.235.010 apply throughout this
32 subsection (5) unless the context clearly requires otherwise.

33 (ii) For the purpose of this subsection (5), the term "supplier"
34 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~
35 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~
36 ~~fuel supplier or a special fuel importer, as those terms are defined~~
37 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~
38 ~~terms are defined in RCW 82.42.010)) Suppliers of fuels that produce,~~
39 refine, import, or deliver, or any combination of producing,
40 refining, importing, or delivering, a quantity of fuel in Washington

1 that, if completely combusted, oxidized, or used in other processes,
2 would result in the release of greenhouse gases equivalent to or
3 higher than the threshold established under (a) of this subsection;
4 and (B) suppliers of carbon dioxide that produce, import, or deliver
5 a quantity of carbon dioxide in Washington that, if released, would
6 result in emissions equivalent to or higher than the threshold
7 established under (a) of this subsection. A refinery facility, as
8 defined in section 2 of this act, is considered a supplier for the
9 purposes of this section.

10 (iii) For the purpose of this subsection (5), the term "person"
11 includes: (A) An owner or operator(~~(, as those terms are defined by~~
12 ~~the United States environmental protection agency in its mandatory~~
13 ~~greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted~~
14 ~~on September 22, 2009)) of a facility; ((and)) (B) a supplier; or (C)
15 an electric power entity.~~

16 (iv) For the purpose of this subsection (5), the term "facility"
17 includes facilities that directly emit greenhouse gases in Washington
18 equivalent to the threshold established under (a) of this subsection
19 with at least one source category listed in the United States
20 environmental protection agency's mandatory greenhouse gas reporting
21 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through
22 UU, as adopted on April 25, 2011, except for the following source
23 categories: (A) Municipal solid waste landfills; (B) industrial waste
24 landfills; (C) industrial wastewater treatment; and (D) manure
25 management.

26 (v) For the purpose of this subsection (5), the term "electric
27 power entity" includes any of the following that supply electric
28 power in Washington with associated emissions of greenhouse gases
29 equal to or above the threshold established under (a) of this
30 subsection: (A) Electricity importers and exporters; (B) retail
31 providers, including multijurisdictional retail providers; and (C)
32 first jurisdictional deliverers, as defined in section 2 of this act,
33 not otherwise included here. A federal power market agency may
34 voluntarily report associated emissions of greenhouse gases under
35 this section in the same manner as an electric power entity.

36 NEW SECTION. Sec. 30. Except where explicitly stated otherwise,
37 nothing in this chapter limits any state agency authority as it
38 existed prior to the effective date of this section. This act

1 supersedes the provisions of RCW 70.235.005 to the extent that
2 section is inconsistent with the provisions of this chapter.

3 NEW SECTION. **Sec. 31.** This act may be known and cited as the
4 carbon pollution accountability act.

5 NEW SECTION. **Sec. 32.** Sections 1 through 12, 15 through 23, and
6 30 of this act constitute a new chapter in Title 70 RCW and must be
7 codified immediately following chapter 70.235 RCW.

8 NEW SECTION. **Sec. 33.** Section 25 of this act expires June 30,
9 2019.

10 NEW SECTION. **Sec. 34.** Section 26 of this act takes effect June
11 30, 2019.

12 NEW SECTION. **Sec. 35.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 36.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and takes
19 effect immediately.

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