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**SUBSTITUTE SENATE BILL 5842**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Carlyle, Lias, Das, Nguyen, and Nobles)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to state laws that address climate change;  
2 amending RCW 70A.65.070, 70A.65.100, 70A.65.200, 70A.65.020,  
3 70A.65.150, 70A.65.160, 70A.65.230, 70A.15.2200, and 70A.65.010; and  
4 adding new sections to chapter 70A.65 RCW.

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

6 **Sec. 1.** RCW 70A.65.070 and 2021 c 316 s 9 are each amended to  
7 read as follows:

8 (1)(a) The department shall commence the program by January 1,  
9 2023, by determining an emissions baseline establishing the  
10 proportionate share that the total greenhouse gas emissions of  
11 covered entities for the first compliance period bears to the total  
12 anthropogenic greenhouse gas emissions in the state during 2015  
13 through 2019, based on data reported to the department under RCW  
14 70A.15.2200 or provided as required by this chapter, as well as other  
15 relevant data. By October 1, 2022, the department shall adopt annual  
16 allowance budgets for the first compliance period of the program,  
17 calendar years 2023 through 2026, to be distributed from January 1,  
18 2023, through December 31, 2026.

19 (b) By October 1, 2026, the department shall add to its emissions  
20 baseline by incorporating the proportionate share that the total  
21 greenhouse gas emissions of new covered entities in the second

1 compliance period bear to the total anthropogenic greenhouse gas  
2 emissions in the state during ~~((2023))~~ 2015 through ~~((2025))~~ 2019. In  
3 determining the addition to the baseline, the department may exclude  
4 a year from the determination if the department identifies that year  
5 to have been an outlier due to a state of emergency. The department  
6 shall adopt annual allowance budgets for the second compliance period  
7 of the program, calendar years 2027 through 2030, that will be  
8 distributed from January 1, 2027, through December 31, 2030.

9 (c) By October 1, 2028, the department shall adopt by rule the  
10 annual allowance budgets for calendar years 2031 through 2040.

11 (2) The annual allowance budgets must be set to achieve the share  
12 of reductions by covered entities necessary to achieve the 2030,  
13 2040, and 2050 statewide emissions limits established in RCW  
14 70A.45.020, based on data reported to the department under chapter  
15 70A.15 RCW or provided as required by this chapter. Annual allowance  
16 budgets must be set such that the use of offsets as compliance  
17 instruments, consistent with RCW 70A.65.170, does not prevent the  
18 achievement of the emissions limits established in RCW 70A.45.020. In  
19 so setting annual allowance budgets, the department must reduce the  
20 annual allowance budget relative to the limits in an amount  
21 equivalent to offset use, or in accordance with a similar methodology  
22 adopted by the department. The department must adopt annual allowance  
23 budgets for the program on a calendar year basis that provide for  
24 progressively equivalent reductions year over year. An allowance  
25 distributed under the program, either directly by the department  
26 under RCW 70A.65.110 through 70A.65.130 or ~~((though—[through]))~~  
27 through auctions under RCW 70A.65.100, does not expire and may be  
28 held or banked consistent with RCW 70A.65.100(6) and 70A.65.150(1).

29 (3) The department must complete an evaluation by December 31,  
30 2027, and by December 31, 2035, of the performance of the program,  
31 including its performance in reducing greenhouse gases. If the  
32 evaluation shows that adjustments to the annual allowance budgets are  
33 necessary for covered entities to achieve their proportionate share  
34 of the 2030 and 2040 emission reduction limits identified in RCW  
35 70A.45.020, as applicable, the department shall adjust the annual  
36 allowance budgets accordingly. The department must complete  
37 additional evaluations of the performance of the program by December  
38 31, 2040, and by December 31, 2045, and make any necessary  
39 adjustments in the annual allowance budgets to ensure that covered  
40 entities achieve their proportionate share of the 2050 emission

1 reduction limit identified in RCW 70A.45.020. Nothing in this  
2 subsection precludes the department from making additional  
3 adjustments to annual allowance budgets as necessary to ensure  
4 successful achievement of the proportionate emission reduction limits  
5 by covered entities. The department shall determine and make public  
6 the circumstances, metrics, and processes that would initiate the  
7 public consideration of additional allowance budget adjustments to  
8 ensure successful achievement of the proportionate emission reduction  
9 limits.

10 (4) Data reported to the department under RCW 70A.15.2200 or  
11 provided as required by this chapter for 2015 through 2019 is deemed  
12 sufficient for the purpose of adopting annual allowance budgets and  
13 serving as the baseline by which covered entities demonstrate  
14 compliance under the first compliance period of the program. Data  
15 reported to the department under RCW 70A.15.2200 or provided as  
16 required by this chapter for 2023 through 2025 is deemed sufficient  
17 for adopting annual allowance budgets and serving as the baseline by  
18 which covered entities demonstrate compliance under the second  
19 compliance period of the program.

20 (5) The legislature intends to promote a growing and sustainable  
21 economy and to avoid leakage of emissions from manufacturing to other  
22 jurisdictions. Therefore, the legislature finds that implementation  
23 of this section is contingent upon the enactment of RCW 70A.65.110.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.65  
25 RCW to read as follows:

26 (1) A covered or opt-in entity has a compliance obligation for  
27 its emissions during each four-year compliance period, with the first  
28 compliance period commencing January 1, 2023. The department shall by  
29 rule require that covered or opt-in entities annually transfer a  
30 percentage of compliance instruments in order to smooth their  
31 compliance obligation, but must fully satisfy their compliance  
32 obligation, for each compliance period, in a manner similar to  
33 external greenhouse gas emissions trading programs in other  
34 jurisdictions.

35 (2) Compliance occurs through the transfer of the required  
36 compliance instruments or price ceiling units, on or before the  
37 transfer date, from the holding account to the compliance account of  
38 the covered or opt-in entity as described in RCW 70A.65.080.

1 (3) (a) A covered entity with a facility eligible for use of price  
2 ceiling units under RCW 70A.65.160 may substitute the submission of  
3 compliance instruments with price ceiling units.

4 (b) A covered or opt-in entity submitting insufficient compliance  
5 instruments to meet its compliance obligation is subject to a penalty  
6 as provided in RCW 70A.65.200.

7 (4) Older vintage allowances must be retired before newer vintage  
8 allowances.

9 (5) Upon receipt by the department of all compliance instruments  
10 transferred by a covered entity or opt-in entity to meet its  
11 compliance obligation, the department shall retire the allowances or  
12 offset credits.

13 **Sec. 3.** RCW 70A.65.100 and 2021 c 316 s 12 are each amended to  
14 read as follows:

15 (1) Except as provided in RCW 70A.65.110, 70A.65.120, and  
16 70A.65.130, the department shall distribute allowances through  
17 auctions as provided in this section and in rules adopted by the  
18 department to implement these sections. An allowance is not a  
19 property right.

20 (2) (a) The department shall hold a maximum of four auctions  
21 annually, plus any necessary reserve auctions. An auction may include  
22 allowances from the annual allowance budget of the current year and  
23 allowances from the annual allowance budgets from prior years that  
24 remain to be distributed. The department must transmit to the  
25 environmental justice council an auction notice at least 60 days  
26 prior to each auction, as well as a summary results report and a  
27 postauction public proceeds report within 60 days after each auction.  
28 The department must communicate the results of the previous calendar  
29 year's auctions to the environmental justice council on an annual  
30 basis beginning in 2024.

31 (b) The department must make future vintage allowances available  
32 through parallel auctions at least twice annually in addition to the  
33 auctions through which current vintage allowances are exclusively  
34 offered under (a) of this subsection.

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 the bid  
38 guarantees, evaluate bid guarantees, and inform the department of the  
39 value of bid guarantees once the bids are accepted.

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

5 (a) Registered entities intending to participate in an auction  
6 must submit an application to participate at least 30 days prior to  
7 the auction. The application must include the documentation required  
8 for review and approval by the department. A registered entity is  
9 eligible to participate only after receiving a notice of approval by  
10 the department.

11 (b) Each registered entity that elects to participate in the  
12 auction must have a different representative. Only a representative  
13 with an approved auction account is authorized to access the auction  
14 platform to submit an application or confirm the intent to bid for  
15 the registered entity, submit bids on behalf of the registered entity  
16 during the bidding window, or to download reports specific to the  
17 auction.

18 (5) The department may require a bid guarantee, payable to the  
19 financial services administrator, in an amount greater than or equal  
20 to the sum of the maximum value of the bids to be submitted by the  
21 registered entity.

22 (6) To protect the integrity of the auctions, a registered entity  
23 or group of registered entities with a direct corporate association  
24 are subject to auction purchase and holding limits. The department  
25 may impose additional limits if it deems necessary to protect the  
26 integrity and functioning of the auctions:

27 (a) A covered entity or an opt-in entity may not buy more than 10  
28 percent of the allowances offered during a single auction;

29 (b) A general market participant may not buy more than four  
30 percent of the allowances offered during a single auction and may not  
31 in aggregate own more than 10 percent of total allowances to be  
32 issued in a calendar year;

33 (c) No registered entity may buy more than the entity's bid  
34 guarantee; and

35 (d) No registered entity may buy allowances that would exceed the  
36 entity's holding limit at the time of the auction.

37 (7)(a) For fiscal year 2023, upon completion and verification of  
38 the auction results, the financial services administrator shall  
39 notify winning bidders and transfer the auction proceeds to the state  
40 treasurer for deposit as follows: (i) \$127,341,000 must first be

1 deposited into the carbon emissions reduction account created in RCW  
2 70A.65.240; and (ii) the remaining auction proceeds to the climate  
3 investment account created in RCW 70A.65.250 and the air quality and  
4 health disparities improvement account created in RCW 70A.65.280.

5 (b) For fiscal year 2024, upon completion and verification of the  
6 auction results, the financial services administrator shall notify  
7 winning bidders and transfer the auction proceeds to the state  
8 treasurer for deposit as follows: (i) \$356,697,000 must first be  
9 deposited into the carbon emissions reduction account created in RCW  
10 70A.65.240; and (ii) the remaining auction proceeds to the climate  
11 investment account created in RCW 70A.65.250 and the air quality and  
12 health disparities improvement account created in RCW 70A.65.280.

13 (c) For fiscal year 2025, upon completion and verification of the  
14 auction results, the financial services administrator shall notify  
15 winning bidders and transfer the auction proceeds to the state  
16 treasurer for deposit as follows: (i) \$366,558,000 must first be  
17 deposited into the carbon emissions reduction account created in RCW  
18 70A.65.240; and (ii) the remaining auction proceeds to the climate  
19 investment account created in RCW 70A.65.250 and the air quality and  
20 health disparities improvement account created in RCW 70A.65.280.

21 (d) For fiscal years 2026 through 2037, upon completion and  
22 verification of the auction results, the financial services  
23 administrator shall notify winning bidders and transfer the auction  
24 proceeds to the state treasurer for deposit as follows: (i)  
25 \$359,117,000 per year must first be deposited into the carbon  
26 emissions reduction account created in RCW 70A.65.240; and (ii) the  
27 remaining auction proceeds to the climate investment account created  
28 in RCW 70A.65.250 and the air quality and health disparities  
29 improvement account created in RCW 70A.65.280.

30 (e) The deposits into the carbon emissions reduction account  
31 pursuant to (a) through (d) of this subsection must not exceed  
32 \$5,200,000,000 over the first 16 years and any remaining auction  
33 proceeds must be deposited into the climate investment account  
34 created in RCW 70A.65.250 and the air quality and health disparities  
35 improvement account created in RCW 70A.65.280.

36 (f) For fiscal year 2038 and each year thereafter, upon  
37 completion and verification of the auction results, the financial  
38 services administrator shall notify winning bidders and transfer the  
39 auction proceeds to the state treasurer for deposit as follows: (i)  
40 50 percent of the auction proceeds to the carbon emissions reduction

1 account created in RCW 70A.65.240; and (ii) the remaining auction  
2 proceeds to the climate investment account created in RCW 70A.65.250  
3 and the air quality and health disparities improvement account  
4 created in RCW 70A.65.280.

5 (8) The department shall adopt by rule provisions to guard  
6 against bidder collusion and minimize the potential for market  
7 manipulation. A registered entity may not release or disclose any  
8 bidding information including: Intent to participate or refrain from  
9 participation; auction approval status; intent to bid; bidding  
10 strategy; bid price or bid quantity; or information on the bid  
11 guarantee provided to the financial services administrator. The  
12 department may cancel or restrict a previously approved auction  
13 participation application or reject a new application if the  
14 department determines that a registered entity has:

15 (a) Provided false or misleading facts;

16 (b) Withheld material information that could influence a decision  
17 by the department;

18 (c) Violated any part of the auction rules;

19 (d) Violated registration requirements; or

20 (e) Violated any of the rules regarding the conduct of the  
21 auction.

22 (9) Records containing the following information are confidential  
23 and are exempt from public disclosure in their entirety:

24 (a) Bidding information as identified in subsection (8) of this  
25 section;

26 (b) Information contained in the secure, online electronic  
27 tracking system established by the department pursuant to RCW  
28 70A.65.090(6);

29 (c) Financial, proprietary, and other market sensitive  
30 information as determined by the department that is submitted to the  
31 department pursuant to this chapter;

32 (d) Financial, proprietary, and other market sensitive  
33 information as determined by the department that is submitted to the  
34 independent contractor or the financial services administrator  
35 engaged by the department pursuant to subsection (3) of this section;  
36 and

37 (e) Financial, proprietary, and other market sensitive  
38 information as determined by the department that is submitted to a  
39 jurisdiction with which the department has entered into a linkage  
40 agreement pursuant to RCW 70A.65.210, and which is shared with the

1 department, the independent contractor, or the financial services  
2 administrator pursuant to a linkage agreement.

3 (10) Any cancellation or restriction approved by the department  
4 under subsection (8) of this section may be permanent or for a  
5 specified number of auctions and the cancellation or restriction  
6 imposed is not exclusive and is in addition to the remedies that may  
7 be available pursuant to chapter 19.86 RCW or other state or federal  
8 laws, if applicable.

9 ~~((10))~~ (11) The department shall design allowance auctions so  
10 as to 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 has  
13 entered into a linkage agreement with other external greenhouse gas  
14 emissions trading programs. The department may conduct auctions  
15 jointly with linked jurisdictions.

16 ~~((11))~~ (12) In setting the number of allowances offered at each  
17 auction, the department shall consider the allowances in the  
18 marketplace due to the marketing of allowances issued as required  
19 under RCW 70A.65.110, 70A.65.120, and 70A.65.130 in the department's  
20 determination of the number of allowances to be offered at auction.  
21 The department shall offer only such number of allowances at each  
22 auction as will enhance the likelihood of achieving the goals of RCW  
23 70A.45.020.

24 **Sec. 4.** RCW 70A.65.200 and 2021 c 316 s 23 are each amended to  
25 read as follows:

26 (1) All covered and opt-in entities are required to submit  
27 compliance instruments in a timely manner to meet the entities'  
28 compliance obligations and shall comply with all requirements for  
29 monitoring, reporting, holding, and transferring emission allowances  
30 and other provisions of this chapter.

31 (2) If a covered or opt-in entity does not submit sufficient  
32 compliance instruments to meet its compliance obligation by the  
33 specified transfer dates, a penalty of four allowances for every one  
34 compliance instrument that is missing must be submitted to the  
35 department within six months. When a covered entity or opt-in entity  
36 reasonably believes that it will be unable to meet a compliance  
37 obligation, the entity shall immediately notify the department. Upon  
38 receiving notification, the department shall issue an order requiring  
39 the entity to submit the penalty allowances.



1 (3) If a covered entity or opt-in entity fails to submit penalty  
2 allowances as required by subsection (2) of this section, the  
3 department must issue an order or issue a penalty of up to \$10,000  
4 per day per violation, or both, for failure to submit penalty  
5 allowances as required by subsection (2) of the section. The order  
6 may include a plan and schedule for coming into compliance.

7 (4) The department may issue a penalty of up to \$50,000 per day  
8 per violation for violations of RCW 70A.65.100(8) (a) through (e).

9 (5) Except as provided in subsections (3) and (4) of this  
10 section, any person that violates the terms of this chapter or an  
11 order issued under this chapter incurs a penalty of up to \$10,000 per  
12 day per violation for each day that the person does not comply. All  
13 penalties under subsections (3) and (4) of this section and this  
14 subsection must be deposited into the climate investment account  
15 created in RCW 70A.65.250.

16 (6) Orders and penalties issued under this chapter are appealable  
17 to the pollution control hearings board under chapter 43.21B RCW.

18 (7) For the first compliance period, the department may reduce  
19 the amount of the penalty by adjusting the monetary amount or the  
20 number of penalty allowances described in subsections (2) and (3) of  
21 this section.

22 (8) An electric utility or natural gas utility must notify its  
23 retail customers and the environmental justice council in published  
24 form within three months of paying a monetary penalty under this  
25 section.

26 (9)(a) No city, town, county, township, or other subdivision or  
27 municipal corporation of the state may implement a charge or tax  
28 based exclusively upon the quantity of greenhouse gas emissions.

29 (b) No state agency may adopt or enforce a (~~program that~~  
30 ~~regulates greenhouse gas emissions from a stationary source except as~~  
31 ~~provided in this chapter~~)) greenhouse gas pricing or market-based  
32 emissions cap and reduce program for stationary sources, or adopt or  
33 enforce emission limitations on greenhouse gas emissions from  
34 stationary sources except as:

35 (i) Provided in this chapter;

36 (ii) Authorized or directed by state statute; or

37 (iii) Required to implement a federal statute, rule, or program.

38 (c) This chapter preempts the provisions of chapter 173-442 WAC.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 70A.65  
2    RCW to read as follows:

3        (1) The executive office of climate policy and accountability is  
4    established within the department. The office shall report to the  
5    director of the department.

6        (2) The primary purpose of the executive office of climate policy  
7    and accountability is to support Washington state's commitment to  
8    reduce greenhouse gas emissions, provide accountability to achieve  
9    the greenhouse gas limits established in RCW 70A.45.020, and provide  
10   an accurate greenhouse gas inventory. The office must aggressively  
11   implement laws and policies to achieve those limits including, but  
12   not limited to, the cap and invest program created under this  
13   chapter. The office is expected to represent the state on national  
14   and international greenhouse gas emissions reduction policies.

15       (3) The executive office of climate policy and accountability  
16   must be established by July 1, 2022, and staffing transfers must be  
17   complete by July 1, 2023.

18       (4) The executive office of climate policy and accountability  
19   must develop and present to the legislature a strategic climate work  
20   plan with performance milestones and accountability measures by  
21   January 31, 2024. The office must submit a legislative report on  
22   progress by January 31, 2025, and every two years thereafter.

23       **Sec. 6.**    RCW 70A.65.020 and 2021 c 316 s 3 are each amended to  
24   read as follows:

25       (1) To ensure that the program created in RCW 70A.65.060 through  
26   70A.65.210 achieves reductions in criteria pollutants as well as  
27   greenhouse gas emissions in overburdened communities highly impacted  
28   by air pollution, the department must:

29       (a) Identify overburdened communities, which may be accomplished  
30   through the department's process to identify overburdened communities  
31   under chapter (~~(314, Laws of 2021)~~) 70A.02 RCW;

32       (b) Deploy an air monitoring network in overburdened communities  
33   to collect sufficient air quality data for the 2023 review and  
34   subsequent reviews of criteria pollutant reductions conducted under  
35   subsection (2) of this section; and

36       (c) (i) Within the identified overburdened communities, analyze  
37   and determine which sources are the greatest contributors of criteria  
38   pollutants and develop a high priority list of significant emitters.

1 (ii) Prior to listing any entity as a high priority emitter, the  
2 department must notify that entity and share the data used to rank  
3 that entity as a high priority emitter, and provide a period of not  
4 less than 60 days for the covered entity to submit more recent data  
5 or other information relevant to the designation of that entity as a  
6 high priority emitter.

7 (2)(a) Beginning in 2023, and every two years thereafter, the  
8 department must conduct a review to determine levels of criteria  
9 pollutants, as well as greenhouse gas emissions, in the overburdened  
10 communities identified under subsection (1) of this section. This  
11 review must also include an evaluation of initial and subsequent  
12 health impacts related to criteria pollution in overburdened  
13 communities. The department may conduct this evaluation jointly with  
14 the department of health.

15 (b) Once this review determines the levels of criteria pollutants  
16 in an identified overburdened community, then the department, in  
17 consultation with local air pollution control authorities, must:

18 (i) Establish air quality targets to achieve air quality  
19 consistent with whichever is more protective for human health:

20 (A) National ambient air quality standards established by the  
21 United States environmental protection agency; or

22 (B) The air quality experienced in neighboring communities that  
23 are not identified as overburdened;

24 (ii) Identify the stationary and mobile sources that are the  
25 greatest contributors of those emissions that are either increasing  
26 or not decreasing;

27 (iii) Achieve the reduction targets through adoption of emission  
28 control strategies or other methods;

29 (iv) Adopt, along with local air pollution control authorities,  
30 stricter air quality standards, emission standards, or emissions  
31 limitations on criteria pollutants, consistent with the authority of  
32 the department provided under RCW 70A.15.3000, and may consider  
33 alternative mitigation actions that would reduce criteria pollution  
34 by similar amounts; and

35 (v) After adoption of the stricter air quality standards,  
36 emission standards, or emissions limitations on criteria pollutants  
37 under (b)(iv) of this subsection, issue an enforceable order or the  
38 local air authority must issue an enforceable order, as authorized  
39 under RCW 70A.15.1100, as necessary to comply with the stricter  
40 standards or limitations and the requirements of this section. The

1 department or local air authority must initiate the process,  
2 including provision of notice to all relevant affected permittees or  
3 registered sources and to the public, to adopt and implement an  
4 enforceable order required under this subsection within six months of  
5 the adoption of standards or limitations under (b)(iv) of this  
6 subsection.

7 (c) Actions imposed under this section may not impose  
8 requirements on a permitted stationary source that are  
9 disproportionate to the permitted stationary source's contribution to  
10 air pollution compared to other permitted stationary sources and  
11 other sources of criteria pollutants in the overburdened community.

12 (3) An eligible facility sited after July 25, 2021, that receives  
13 allowances under RCW 70A.65.110 must mitigate increases in (~~its~~  
14 ~~emissions of~~) particulate matter in overburdened communities due to  
15 its emissions.

16 (4) (a) The department must create and adopt a supplement to the  
17 department's community engagement plan developed pursuant to chapter  
18 (~~314, Laws of 2021~~) 70A.02 RCW. The supplement must describe how  
19 the department will engage with overburdened communities and  
20 vulnerable populations in:

21 (i) Identifying emitters in overburdened communities; and

22 (ii) Monitoring and evaluating criteria pollutant emissions in  
23 those areas.

24 (b) The community engagement plan must include methods for  
25 outreach and communication with those who face barriers, language or  
26 otherwise, to participation.

27 **Sec. 7.** RCW 70A.65.150 and 2021 c 316 s 17 are each amended to  
28 read as follows:

29 (1) To help minimize allowance price volatility in the auction,  
30 the department shall adopt by rule an auction floor price and a  
31 schedule for the floor price to increase by a predetermined amount  
32 every year. The department may not sell allowances at bids lower than  
33 the auction floor price. The department's rules must specify holding  
34 limits that determine the maximum number of allowances that may be  
35 held for use or trade by a registered entity at any one time. The  
36 department shall also establish (~~an auction ceiling~~) a reserve  
37 auction floor price to limit extraordinary prices and to determine  
38 when to offer allowances through the allowance price containment  
39 reserve auctions authorized under this section.

1 (2) For calendar years 2023 through 2026, the department must  
2 place no less than two percent of the total number of allowances  
3 available from the allowance budgets for those years in an allowance  
4 price containment reserve. The reserve must be designed as a  
5 mechanism to assist in containing compliance costs for covered and  
6 opt-in entities in the event of unanticipated high costs for  
7 compliance instruments.

8 (3) (a) The department shall adopt rules for holding auctions of  
9 allowances from the price containment reserve when the settlement  
10 prices in the preceding auction (~~(approach)~~) exceed the adopted  
11 (~~(auction ceiling)~~) reserve auction floor price. The auction must be  
12 separate from auctions of other allowances.

13 (b) Allowances must also be distributed from the allowance price  
14 containment reserve by auction when new covered and opt-in entities  
15 enter the program and allowances in the emissions containment reserve  
16 under RCW 70A.65.140(5) are exhausted.

17 (4) Only covered and opt-in entities may participate in the  
18 auction of allowances from the allowance price containment reserve.

19 (5) The process for reserve auctions is the same as the process  
20 provided in RCW 70A.65.100 and the proceeds from reserve auctions  
21 must be treated the same.

22 (6) The department shall by rule:

23 (a) Set the reserve auction floor price in advance of the reserve  
24 auction. The department may choose to establish multiple price tiers  
25 for the allowances from the reserve;

26 (b) Establish the requirements and schedule for the allowance  
27 price containment reserve auctions; and

28 (c) Establish the amount of allowances to be placed in the  
29 allowance price containment reserve after the first compliance period  
30 ending in 2026.

31 **Sec. 8.** RCW 70A.65.160 and 2021 c 316 s 18 are each amended to  
32 read as follows:

33 (1) The department shall establish a price ceiling to provide  
34 cost protection for facilities obligated to comply with this chapter.  
35 The ceiling must be set at a level sufficient to facilitate  
36 investments to achieve further emission reductions beyond those  
37 enabled by the price ceiling, with the intent that investments  
38 accelerate the state's achievement of greenhouse gas limits  
39 established under RCW 70A.45.020. The price ceiling must increase

1 annually in proportion to the (~~price floor~~) reserve auction floor  
2 price established in RCW 70A.65.150(1).

3 (2) In the event that no allowances remain in the allowance price  
4 containment reserve, the department must issue the number of price  
5 ceiling units for sale sufficient to provide cost protection for  
6 facilities as established under subsection (1) of this section.  
7 Purchases must be limited to entities that do not have sufficient  
8 eligible compliance instruments in their holding and compliance  
9 accounts for the next compliance period and these entities may only  
10 purchase what they need to meet their compliance obligation for the  
11 current compliance period. Price ceiling units may not be sold or  
12 transferred and must be retired for compliance in the current  
13 compliance period. A price ceiling unit is not a property right.

14 (3) Funds raised in connection with the sale of price ceiling  
15 units must be expended to achieve emissions reductions on at least a  
16 metric ton for metric ton basis that are real, permanent,  
17 quantifiable, verifiable, enforceable by the state, and in addition  
18 to any greenhouse gas emission reduction otherwise required by law or  
19 regulation and any other greenhouse gas emission reduction that  
20 otherwise would occur.

21 **Sec. 9.** RCW 70A.65.230 and 2021 c 316 s 26 are each amended to  
22 read as follows:

23 (1) It is the intent of the legislature that each year the total  
24 investments made through the carbon emissions reduction account  
25 created in RCW 70A.65.240, the climate commitment account created in  
26 RCW 70A.65.260, the natural climate solutions account created in RCW  
27 70A.65.270, and the air quality and health disparities improvement  
28 account created in RCW 70A.65.280, achieve the following:

29 (a) A minimum of not less than 35 percent and a goal of 40  
30 percent of total investments that provide direct and meaningful  
31 benefits to vulnerable populations within the boundaries of  
32 overburdened communities identified under chapter (~~314, Laws of~~  
33 ~~2021~~) 70A.02 RCW; and

34 (b) In addition to the requirements of (a) of this subsection, a  
35 minimum of not less than 10 percent of total investments that are  
36 used for programs, activities, or projects formally supported by a  
37 resolution of an Indian tribe, with priority given to otherwise  
38 qualifying projects directly administered or proposed by an Indian  
39 tribe. An investment that meets the requirements of both this

1 subsection (1)(b) and (a) of this subsection may count toward the  
2 minimum percentage targets for both subsections.

3 (2) The expenditure of moneys under this chapter must be  
4 consistent with applicable federal, state, and local laws, and treaty  
5 rights including, but not limited to, prohibitions on uses of funds  
6 imposed by the state Constitution.

7 (3) For the purposes of this section, "benefits" means  
8 investments or activities that:

9 (a) Reduce vulnerable population characteristics, environmental  
10 burdens, or associated risks that contribute significantly to the  
11 cumulative impact designation of (~~highly impacted~~) overburdened  
12 communities;

13 (b) Meaningfully protect an overburdened community from, or  
14 support community response to, the impacts of air pollution or  
15 climate change; or

16 (c) Meet a community need identified by vulnerable members of the  
17 overburdened community that is consistent with the intent of this  
18 chapter.

19 (4) The state must develop a process by which to evaluate the  
20 impacts of the investments made under this chapter, work across state  
21 agencies to develop and track priorities across the different  
22 eligible funding categories, and work with the environmental justice  
23 council pursuant to RCW 70A.65.040.

24 (5) No expenditures may be made from the carbon emissions  
25 reduction account created in RCW 70A.65.240, the climate investment  
26 account created in RCW 70A.65.250, or the air quality and health  
27 disparities improvement account created in RCW 70A.65.280 if, by  
28 April 1, 2023, the legislature has not considered and enacted request  
29 legislation brought forth by the department under RCW 70A.65.060 that  
30 outlines a compliance pathway specific to emissions-intensive, trade-  
31 exposed businesses for achieving their proportionate share of the  
32 state's emissions reduction limits through 2050.

33 **Sec. 10.** RCW 70A.15.2200 and 2021 c 316 s 33 are each amended to  
34 read as follows:

35 (1) The board of any activated authority or the department, may  
36 classify air contaminant sources, by ordinance, resolution, rule or  
37 regulation, which in its judgment may cause or contribute to air  
38 pollution, according to levels and types of emissions and other  
39 characteristics which cause or contribute to air pollution, and may

1 require registration or reporting or both for any such class or  
2 classes. Classifications made pursuant to this section may be for  
3 application to the area of jurisdiction of such authority, or the  
4 state as a whole or to any designated area within the jurisdiction,  
5 and shall be made with special reference to effects on health,  
6 economic and social factors, and physical effects on property.

7 (2) Except as provided in subsection (3) of this section, any  
8 person operating or responsible for the operation of air contaminant  
9 sources of any class for which the ordinances, resolutions, rules or  
10 regulations of the department or board of the authority, require  
11 registration or reporting shall register therewith and make reports  
12 containing information as may be required by such department or board  
13 concerning location, size and height of contaminant outlets,  
14 processes employed, nature of the contaminant emission and such other  
15 information as is relevant to air pollution and available or  
16 reasonably capable of being assembled. In the case of emissions of  
17 greenhouse gases as defined in RCW 70A.45.010 the department shall  
18 adopt rules requiring reporting of those emissions. The department or  
19 board may require that such registration or reporting be accompanied  
20 by a fee, and may determine the amount of such fee for such class or  
21 classes: PROVIDED, That the amount of the fee shall only be to  
22 compensate for the costs of administering such registration or  
23 reporting program which shall be defined as initial registration and  
24 annual or other periodic reports from the source owner providing  
25 information directly related to air pollution registration, on-site  
26 inspections necessary to verify compliance with registration  
27 requirements, data storage and retrieval systems necessary for  
28 support of the registration program, emission inventory reports and  
29 emission reduction credits computed from information provided by  
30 sources pursuant to registration program requirements, staff review,  
31 including engineering or other reliable analysis for accuracy and  
32 currentness, of information provided by sources pursuant to  
33 registration program requirements, clerical and other office support  
34 provided in direct furtherance of the registration program, and  
35 administrative support provided in directly carrying out the  
36 registration program: PROVIDED FURTHER, That any such registration  
37 made with either the board or the department shall preclude a further  
38 registration and reporting with any other board or the department,  
39 except that emissions of greenhouse gases as defined in RCW



1 70A.45.010 must be reported as required under subsection (5) of this  
2 section.

3 All registration program and reporting fees collected by the  
4 department shall be deposited in the air pollution control account.  
5 All registration program fees collected by the local air authorities  
6 shall be deposited in their respective treasuries.

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

20 This subsection does not apply to a grain warehouse or grain  
21 elevator if the warehouse or elevator handles more than (~~ten~~  
22 ~~million~~) 10,000,000 bushels of grain annually.

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

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

29 (b) A "license" is a license issued by the department of  
30 agriculture licensing a facility as a grain warehouse or grain  
31 elevator under chapter 22.09 RCW or a license issued by the federal  
32 government licensing a facility as a grain warehouse or grain  
33 elevator for purposes similar to those of licensure for the facility  
34 under chapter 22.09 RCW; and

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

36 (5)(a) The department shall adopt rules requiring persons to  
37 report emissions of greenhouse gases as defined in RCW 70A.45.010  
38 where those emissions from a single facility, or from electricity or  
39 fossil fuels sold in Washington by a single supplier or local  
40 distribution company, meet or exceed (~~ten thousand~~) 10,000 metric

1 tons of carbon dioxide equivalent annually. The rules adopted by the  
2 department must support implementation of the program created in RCW  
3 70A.65.060. In addition, the rules must require that:

4 (i) Emissions of greenhouse gases resulting from the combustion  
5 of fossil fuels be reported separately from emissions of greenhouse  
6 gases resulting from the combustion of biomass; and

7 (ii) Each annual report must include emissions data for the  
8 preceding calendar year and must be submitted to the department by  
9 March 31st of the year in which the report is due, except for an  
10 electric power entity, which must submit its report by June 1st of  
11 the year in which the report is due.

12 (b) (i) The department may by rule include additional gases to the  
13 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has  
14 been designated as a greenhouse gas by the United States congress, by  
15 the United States environmental protection agency, or included in  
16 external greenhouse gas emission trading programs with which  
17 Washington has pursuant to RCW 70A.65.210. Prior to including  
18 additional gases to the definition of "greenhouse gas" in RCW  
19 70A.45.010, the department shall notify the appropriate committees of  
20 the legislature.

21 (ii) The department may by rule exempt persons who are required  
22 to report greenhouse gas emissions to the United States environmental  
23 protection agency and who emit less than (~~ten thousand~~) 10,000  
24 metric tons carbon dioxide equivalent annually.

25 (iii) The department must establish a methodology for persons who  
26 are not required to report under this section to voluntarily report  
27 their greenhouse gas emissions.

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

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

33 (B) Needed to ensure consistency with emissions reporting  
34 requirements for jurisdictions with which Washington has entered a  
35 linkage agreement.

36 (ii) The department shall not amend its rules in a manner that  
37 conflicts with this section.

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

1 (e) The fee provisions in subsection (2) of this section apply to  
2 reporting of emissions of greenhouse gases. Persons required to  
3 report under (a) of this subsection who fail to report or pay the fee  
4 required in subsection (2) of this section are subject to enforcement  
5 penalties under this chapter. The department shall enforce the  
6 reporting rule requirements. When a person that holds a compliance  
7 obligation under RCW 70A.65.080 fails to submit an emissions data  
8 report or fails to obtain a positive emissions data verification  
9 statement in accordance with (g)(ii) of this subsection, the  
10 department may assign an emissions level for that person.

11 (f) The energy facility site evaluation council shall,  
12 simultaneously with the department, adopt rules that impose  
13 greenhouse gas reporting requirements in site certifications on  
14 owners or operators of a facility permitted by the energy facility  
15 site evaluation council. The greenhouse gas reporting requirements  
16 imposed by the energy facility site evaluation council must be the  
17 same as the greenhouse gas reporting requirements imposed by the  
18 department. The department shall share any information reported to it  
19 from facilities permitted by the energy facility site evaluation  
20 council with the council, including notice of a facility that has  
21 failed to report as required. The energy facility site evaluation  
22 council shall contract with the department to monitor the reporting  
23 requirements adopted under this section.

24 (g)(i) The department must establish by rule the methods of  
25 verifying the accuracy of emissions reports.

26 (ii) Verification requirements apply at a minimum to persons  
27 required to report under (a) of this subsection with emissions that  
28 equal or exceed 25,000 metric tons of carbon dioxide equivalent  
29 emissions, including carbon dioxide from biomass-derived fuels, or to  
30 persons who have a compliance obligation under RCW 70A.65.080 in any  
31 year of the current compliance period. The department may adopt rules  
32 to accept verification reports from another jurisdiction with a  
33 linkage agreement pursuant to RCW 70A.65.180 in cases where the  
34 department deems that the methods or procedures are substantively  
35 similar.

36 (h)(i) The definitions in RCW 70A.45.010 apply throughout this  
37 subsection (5) unless the context clearly requires otherwise.

38 (ii) For the purpose of this subsection (5), the term "supplier"  
39 includes: (A) Suppliers that produce, import, or deliver, or any  
40 combination of producing, importing, or delivering, a quantity of

1 fuel products in Washington that, if completely combusted, oxidized,  
2 or used in other processes, would result in the release of greenhouse  
3 gases in Washington equivalent to or higher than the threshold  
4 established under (a) of this subsection; and (B) suppliers of carbon  
5 dioxide that produce, import, or deliver a quantity of carbon dioxide  
6 in Washington that, if released, would result in emissions equivalent  
7 to or higher than the threshold established under (a) of this  
8 subsection.

9 (iii) For the purpose of this subsection (5), the term "person"  
10 includes: (A) An owner or operator of a facility; (B) a supplier; or  
11 (C) an electric power entity.

12 (iv) For the purpose of this subsection (5), the term "facility"  
13 includes facilities that directly emit greenhouse gases in Washington  
14 equivalent to the threshold established under (a) of this subsection  
15 with at least one source category listed in the United States  
16 environmental protection agency's mandatory greenhouse gas reporting  
17 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through  
18 UU, as adopted on April 25, 2011.

19 (v) For the purpose of this subsection (5), the term "electric  
20 power entity" includes any of the following that supply electric  
21 power in Washington with associated emissions of greenhouse gases  
22 equal to or above the threshold established under (a) of this  
23 subsection: (A) Electricity importers and exporters; (B) retail  
24 providers, including multijurisdictional retail providers; and (C)  
25 first jurisdictional deliverers, as defined in RCW 70A.65.010, not  
26 otherwise included here.

27 **Sec. 11.** RCW 70A.65.010 and 2021 c 316 s 2 are each amended to  
28 read as follows:

29 The definitions in this section apply throughout this chapter  
30 unless the context clearly requires otherwise.

31 (1) "Allowance" means an authorization to emit up to one metric  
32 ton of carbon dioxide equivalent.

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

1 (3) "Annual allowance budget" means the total number of  
2 greenhouse gas allowances allocated for auction and distribution for  
3 one calendar year by the department.

4 (4) "Asset controlling supplier" means any entity that owns or  
5 operates interconnected electricity generating facilities or serves  
6 as an exclusive marketer for these facilities even though it does not  
7 own them, and has been designated by the department and received a  
8 department-published emissions factor for the wholesale electricity  
9 procured from its system. The department shall use a methodology  
10 consistent with the methodology used by an external greenhouse gas  
11 emissions trading program that shares the regional electricity  
12 transmission system. Electricity from an asset controlling supplier  
13 is considered a specified source of electricity.

14 (5) "Auction" means the process of selling greenhouse gas  
15 allowances by offering them up for bid, taking bids, and then  
16 distributing the allowances to winning bidders.

17 (6) "Auction floor price" means a price for allowances below  
18 which bids at auction are not eligible to be accepted.

19 (7) "Auction purchase limit" means the limit on the number of  
20 allowances one registered entity or a group of affiliated registered  
21 entities may purchase from the share of allowances sold at an  
22 auction.

23 (8) "Balancing authority" means the responsible entity that  
24 integrates resource plans ahead of time, maintains load-interchange-  
25 generation balance within a balancing authority area, and supports  
26 interconnection frequency in real time.

27 (9) "Balancing authority area" means the collection of  
28 generation, transmission, and load within the metered boundaries of a  
29 balancing authority. A balancing authority maintains load-resource  
30 balance within this area.

31 (10) "Best available technology" means a technology or  
32 technologies that will achieve the greatest reduction in greenhouse  
33 gas emissions, taking into account the fuels, processes, and  
34 equipment used by facilities to produce goods of comparable type,  
35 quantity, and quality. Best available technology must be technically  
36 feasible, commercially available, economically viable, not create  
37 excessive environmental impacts, and be compliant with all applicable  
38 laws while not changing the characteristics of the good being  
39 manufactured.

1 (11) "Biomass" means nonfossilized and biodegradable organic  
2 material originating from plants, animals, and microorganisms,  
3 including products, by-products, residues, and waste from  
4 agriculture, forestry, and related industries as well as the  
5 nonfossilized and biodegradable organic fractions of municipal  
6 wastewater and industrial waste, including gases and liquids  
7 recovered from the decomposition of nonfossilized and biodegradable  
8 organic material.

9 (12) "Biomass-derived fuels," "biomass fuels," or "biofuels"  
10 means fuels derived from biomass that have at least 40 percent lower  
11 greenhouse gas emissions based on a full life-cycle analysis when  
12 compared to petroleum fuels for which biofuels are capable as serving  
13 as a substitute.

14 (13) "Carbon dioxide equivalents" means a measure used to compare  
15 the emissions from various greenhouse gases based on their global  
16 warming potential.

17 (14) "Carbon dioxide removal" means deliberate human activities  
18 removing carbon dioxide from the atmosphere and durably storing it in  
19 geological, terrestrial, or ocean reservoirs, or in products. "Carbon  
20 dioxide removal" includes existing and potential anthropogenic  
21 enhancement of biological or geochemical sinks and including, but not  
22 limited to, carbon mineralization and direct air capture and storage.

23 (15) "Climate commitment" means the process and mechanisms to  
24 ensure a coordinated and strategic approach to advancing climate  
25 resilience and environmental justice and achieving an equitable and  
26 inclusive transition to a carbon neutral economy.

27 (16) "Climate resilience" is the ongoing process of anticipating,  
28 preparing for, and adapting to changes in climate and minimizing  
29 negative impacts to our natural systems, infrastructure, and  
30 communities. For natural systems, increasing climate resilience  
31 involves restoring and increasing the health, function, and integrity  
32 of our ecosystems and improving their ability to absorb and recover  
33 from climate-affected disturbances. For communities, increasing  
34 climate resilience means enhancing their ability to understand,  
35 prevent, adapt, and recover from climate impacts to people and  
36 infrastructure.

37 (17) "Closed facility" means a facility at which the current  
38 owner or operator has elected to permanently stop production and will  
39 no longer be an emissions source.

1 (18) "Compliance instrument" means an allowance or offset credit  
2 issued by the department or by an external greenhouse gas emissions  
3 trading program to which Washington has linked its greenhouse gas  
4 emissions cap and invest program. One compliance instrument is equal  
5 to one metric ton of carbon dioxide equivalent.

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

10 (20) "Compliance period" means the four-year period for which the  
11 compliance obligation is calculated for covered entities.

12 (21) "Cost burden" means the impact on rates or charges to  
13 customers of electric utilities in Washington state for the  
14 incremental cost of electricity service to serve load due to the  
15 compliance cost for greenhouse gas emissions caused by the program.  
16 Cost burden includes administrative costs from the utility's  
17 participation in the program.

18 (22) "Covered emissions" means the emissions for which a covered  
19 entity has a compliance obligation under RCW 70A.65.080.

20 (23) "Covered entity" means a person that is designated by the  
21 department as subject to RCW 70A.65.060 through 70A.65.210.

22 (24) "Cumulative environmental health impact" has the same  
23 meaning as provided in RCW 70A.02.010.

24 (25) "Curtailed facility" means a facility at which the owner or  
25 operator has temporarily suspended production but for which the owner  
26 or operator maintains operating permits and retains the option to  
27 resume production if conditions become amenable.

28 (26) "Department" means the department of ecology.

29 (27) "Electricity importer" means:

30 (a) For electricity that is scheduled with a NERC e-tag to a  
31 final point of delivery into a balancing authority area located  
32 entirely within the state of Washington, the electricity importer is  
33 identified on the NERC e-tag as the purchasing-selling entity on the  
34 last segment of the tag's physical path with the point of receipt  
35 located outside the state of Washington and the point of delivery  
36 located inside the state of Washington;

37 (b) For facilities physically located outside the state of  
38 Washington with the first point of interconnection to a balancing  
39 authority area located entirely within the state of Washington when

1 the electricity is not scheduled on a NERC e-tag, the electricity  
2 importer is the facility operator or owner;

3 (c) For electricity imported through a centralized market, the  
4 electricity importer will be defined by rule consistent with the  
5 rules required under RCW 70A.65.080(1)(c);

6 (d) For electricity from facilities allocated to serve retail  
7 electricity customers of a multijurisdictional electric company, the  
8 electricity importer is the multijurisdictional electric company;

9 (e) If the importer identified under (a) of this subsection is a  
10 federal power marketing administration over which the state of  
11 Washington does not have jurisdiction, and the federal power  
12 marketing administration has not voluntarily elected to comply with  
13 the program, then the electricity importer is the next purchasing-  
14 selling entity in the physical path on the NERC e-tag, or if no  
15 additional purchasing-selling entity over which the state of  
16 Washington has jurisdiction, then the electricity importer is the  
17 electric utility that operates the Washington transmission or  
18 distribution system, or the generation balancing authority;

19 (f) For electricity that is imported into the state by a federal  
20 power marketing administration and sold to a public body or  
21 cooperative customer or direct service industrial customer located in  
22 Washington pursuant to section 5(b) or (d) of the Pacific Northwest  
23 electric power planning and conservation act of 1980, P.L. 96-501,  
24 the electricity importer is the federal marketing administration;

25 (g) If the importer identified under (f) of this subsection has  
26 not voluntarily elected to comply with the program, then the  
27 electricity importer is the public body or cooperative customer or  
28 direct service industrial customer; or

29 (h) For electricity from facilities allocated to a consumer-owned  
30 utility inside the state of Washington from a multijurisdictional  
31 consumer-owned utility, the electricity importer is the consumer-  
32 owned utility inside the state of Washington.

33 (28) "Emissions containment reserve allowance" means a  
34 conditional allowance that is withheld from sale at an auction by the  
35 department or its agent to secure additional emissions reductions in  
36 the event prices fall below the emissions containment reserve trigger  
37 price.

38 (29) "Emissions containment reserve trigger price" means the  
39 price below which allowances will be withheld from sale by the



1 department or its agent at an auction, as determined by the  
2 department by rule.

3 (30) "Emissions threshold" means the greenhouse gas emission  
4 level at or above which a person has a compliance obligation.

5 (31) "Environmental benefits" has the same meaning as defined in  
6 RCW 70A.02.010.

7 (32) "Environmental harm" has the same meaning as defined in RCW  
8 70A.02.010.

9 (33) "Environmental impacts" has the same meaning as defined in  
10 RCW 70A.02.010.

11 (34) "Environmental justice" has the same meaning as defined in  
12 RCW 70A.02.010.

13 (35) "Environmental justice assessment" has the same meaning as  
14 identified in RCW 70A.02.060.

15 (36) "External greenhouse gas emissions trading program" means a  
16 government program, other than Washington's program created in this  
17 chapter, that restricts greenhouse gas emissions from sources outside  
18 of Washington and that allows emissions trading.

19 (37) "Facility" means any physical property, plant, building,  
20 structure, source, or stationary equipment located on one or more  
21 contiguous or adjacent properties in actual physical contact or  
22 separated solely by a public roadway or other public right-of-way and  
23 under common ownership or common control, that emits or may emit any  
24 greenhouse gas.

25 (38) "First jurisdictional deliverer" means the owner or operator  
26 of an electric generating facility in Washington or an electricity  
27 importer.

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

32 (40) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

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

35 (42) "Imported electricity" means electricity generated outside  
36 the state of Washington with a final point of delivery within the  
37 state.

38 (a) "Imported electricity" includes electricity from an organized  
39 market, such as the energy imbalance market.

1 (b) "Imported electricity" includes imports from linked  
2 jurisdictions, but such imports shall be construed as having no  
3 emissions.

4 (c) Electricity from a system that is marketed by a federal power  
5 marketing administration shall be construed as "imported  
6 electricity," not electricity generated in the state of Washington.

7 (d) "Imported electricity" does not include electricity imports  
8 of unspecified electricity that are netted by exports of unspecified  
9 electricity to any jurisdiction not covered by a linked program by  
10 the same entity within the same hour.

11 (e) For a multijurisdictional electric company, "imported  
12 electricity" means electricity, other than from in-state facilities,  
13 that contributes to a common system power pool. Where a  
14 multijurisdictional electric company has a cost allocation  
15 methodology approved by the utilities and transportation commission,  
16 the allocation of specific facilities to Washington's retail load  
17 will be in accordance with that methodology.

18 (f) For a multijurisdictional consumer-owned utility, "imported  
19 electricity" includes electricity from facilities that contribute to  
20 a common system power pool that are allocated to a consumer-owned  
21 utility inside the state of Washington pursuant to a methodology  
22 approved by the governing board of the consumer-owned utility.

23 (43) "Leakage" means a reduction in emissions of greenhouse gases  
24 within the state that is offset by a directly attributable increase  
25 in greenhouse gas emissions outside the state and outside the  
26 geography of another jurisdiction with a linkage agreement with  
27 Washington.

28 (44) "Limits" means the greenhouse gas emissions reductions  
29 required by RCW 70A.45.020.

30 (45) "Linkage" means a bilateral or multilateral decision under a  
31 linkage agreement between greenhouse gas market programs to accept  
32 compliance instruments issued by a participating jurisdiction to meet  
33 the obligations of regulated entities in a partner jurisdiction and  
34 to otherwise coordinate activities to facilitate operation of a joint  
35 market.

36 (46) "Linkage agreement" means a nonbinding agreement that  
37 connects two or more greenhouse gas market programs and articulates a  
38 mutual understanding of how the participating jurisdictions will work  
39 together to facilitate a connected greenhouse gas market.

1 (47) "Linked jurisdiction" means a jurisdiction with which  
2 Washington has entered into a linkage agreement.

3 (48) "Multijurisdictional consumer-owned utility" means a  
4 consumer-owned utility that provides electricity to member owners in  
5 Washington and in one or more other states in a contiguous service  
6 territory or from a common power system.

7 (49) "Multijurisdictional electric company" means an investor-  
8 owned utility that provides electricity to customers in Washington  
9 and in one or more other states in a contiguous service territory or  
10 from a common power system.

11 (50) "NERC e-tag" means North American electric reliability  
12 corporation (NERC) energy tag representing transactions on the North  
13 American bulk electricity market scheduled to flow between or across  
14 balancing authority areas.

15 (51) "Offset credit" means a tradable compliance instrument that  
16 represents an emissions reduction or emissions removal of one metric  
17 ton of carbon dioxide equivalent.

18 (52) "Offset project" means a project that reduces or removes  
19 greenhouse gases that are not covered emissions under this chapter.

20 (53) "Offset protocols" means a set of procedures and standards  
21 to quantify greenhouse gas reductions or greenhouse gas removals  
22 achieved by an offset project.

23 (54) "Overburdened community" means a geographic area where  
24 vulnerable populations face combined, multiple environmental harms  
25 and health impacts or risks due to exposure to environmental  
26 pollutants or contaminants through multiple pathways, which may  
27 result in significant disparate adverse health outcomes or effects.

28 (a) "Overburdened community" includes, but is not limited to:

29 (i) Highly impacted communities as defined in RCW 19.405.020;

30 (ii) Communities located in census tracts that are fully or  
31 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

32 (iii) Populations, including Native Americans or immigrant  
33 populations, who may be exposed to environmental contaminants and  
34 pollutants outside of the geographic area in which they reside based  
35 on the populations' use of traditional or cultural foods and  
36 practices, such as the use of resources, access to which is protected  
37 under treaty rights in ceded areas, when those exposures in  
38 conjunction with other exposures may result in disproportionately  
39 greater risks, including risks of certain cancers or other adverse  
40 health effects and outcomes.

1 (b) Overburdened communities identified by the department may  
2 include the same communities as those identified by the department  
3 through its process for identifying overburdened communities under  
4 RCW 70A.02.010.

5 (55) "Person" has the same meaning as defined in RCW  
6 70A.15.2200(5)(h)(iii).

7 (56) "Point of delivery" means a point on the electricity  
8 transmission or distribution system where a deliverer makes  
9 electricity available to a receiver, or available to serve load. This  
10 point may be an interconnection with another system or a substation  
11 where the transmission provider's transmission and distribution  
12 systems are connected to another system, or a distribution substation  
13 where electricity is imported into the state over a  
14 multijurisdictional retail provider's distribution system.

15 (57) "Price ceiling unit" means the units issued at a fixed price  
16 by the department for the purpose of limiting price increases and  
17 funding further investments in greenhouse gas reductions.

18 (58) "Program" means the greenhouse gas emissions cap and invest  
19 program created by and implemented pursuant to this chapter.

20 (59) "Program registry" means the data system in which covered  
21 entities, opt-in entities, and general market participants are  
22 registered and in which compliance instruments are recorded and  
23 tracked.

24 (60) "Registered entity" means a covered entity, opt-in entity,  
25 or general market participant that has completed the process for  
26 registration in the program registry.

27 (61) "Resilience" means the ability to prepare, mitigate and plan  
28 for, withstand, recover from, and more successfully adapt to adverse  
29 events and changing conditions, and reorganize in an equitable manner  
30 that results in a new and better condition.

31 (62) "Retire" means to permanently remove a compliance instrument  
32 such that the compliance instrument may never be sold, traded, or  
33 otherwise used again.

34 (63) "Specified source of electricity" or "specified source"  
35 means a facility, unit, or asset controlling supplier that is  
36 permitted to be claimed as the source of electricity delivered. The  
37 reporting entity must have either full or partial ownership in the  
38 facility or a written power contract to procure electricity generated  
39 by that facility or unit or from an asset controlling supplier at the  
40 time of entry into the transaction to procure electricity.

1 (64) "Supplier" means a supplier of fuel in Washington state as  
2 defined in RCW 70A.15.2200(5)(h)(ii).

3 (65) "Tribal lands" has the same meaning as defined in RCW  
4 70A.02.010.

5 (66) "Unspecified source of electricity" or "unspecified source"  
6 means a source of electricity that is not a specified source at the  
7 time of entry into the transaction to procure electricity.

8 (67) "Voluntary renewable reserve account" means a holding  
9 account maintained by the department from which allowances may be  
10 retired for voluntary renewable electricity generation, which is  
11 directly delivered to the state and has not and will not be sold or  
12 used to meet any other mandatory requirements in the state or any  
13 other jurisdiction, on behalf of voluntary renewable energy  
14 purchasers or end users.

15 (68) "Vulnerable populations" has the same meaning as defined in  
16 RCW 70A.02.010.

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