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By Representatives Dent, Reeves, Schmick, Springer, Orcutt, Nance, McClintock, Morgan, Engell, Paul, Mendoza, Bernbaum, Barnard, Richards, Eslick, Manjarrez, Dufault, Shavers, Burnett, Timmons, Abell, Thai, Barkis, Davis, Connors, and Hill

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1 AN ACT Relating to the exemption for fuels used for agricultural
2 purposes in the climate commitment act; amending RCW 70A.65.080; and
3 adding a new section to chapter 70A.65 RCW.

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

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

7 (1) The department must adopt rules under this chapter to
8 establish a remittance program for fuel used by persons whose fuel
9 use is exempt under RCW 70A.65.080(7)(e).

10 (a) For licensed dyed fuel, the department must provide
11 remittances to a supplier for fuel sold by the supplier to a person
12 whose fuel use is exempt under RCW 70A.65.080(7)(e), unless the fuel
13 sold was from a source whose emissions are not covered emissions
14 under this chapter.

15 (b) For other fuel used for exempt purposes under RCW
16 70A.65.080(7)(e) (i) or (ii), the department must provide remittances
17 to the persons whose fuel use is exempt.

18 (2)(a) The department's remittance rules must allow a supplier of
19 fuels to persons whose emissions are exempt under this chapter,
20 including licensed dyed diesel fuel users and other exempt users, to
21 apply to the department for a remittance of a projected fuel price

1 impact derived from total allowance cost, based on the most recent
2 quarterly auction price, for volumes of fuel supplied by the supplier
3 to exempt fuel users.

4 (b) For purposes of computing the amount of the remittance to
5 suppliers and exempt fuel users and calculating the fuel price impact
6 experienced by exempt users under RCW 70A.65.080(7)(e), the
7 department must:

8 (i) Assume that the compliance costs of suppliers are passed
9 through, in full, to exempt users; and

10 (ii) Apply a calculation methodology that multiplies the
11 greenhouse gas emissions per gallon of fuel, exclusive of any biofuel
12 content, by the most recent quarterly allowance auction price.

13 (c) The department must post the fuel price impact calculated
14 under (b) of this subsection on the department's website and include
15 it in each auction summary report of current year vintage allowance
16 auctions.

17 (d) No less often than twice per month for suppliers and
18 quarterly for exempt fuel users, the department must issue
19 remittances to persons who submit valid documentation of exempt fuel
20 purchases.

21 (3) Rules adopted by the department under this chapter must
22 ensure that:

23 (a)(i) Suppliers of fuel for which a remittance is sought under
24 this section do not charge exempt users of dyed fuel for the costs
25 associated with compliance obligations under this chapter; and

26 (ii) The price impacts of the program established under this
27 chapter are not experienced by users of exempt fuel; and

28 (b) To the extent feasible, suppliers applying to the department
29 for a remittance under this section are able to do so only for dyed
30 fuel supplied to farm fuel users and agricultural product
31 transporters that qualify for an exemption under RCW
32 70A.65.080(7)(e).

33 **Sec. 2.** RCW 70A.65.080 and 2024 c 352 s 4 are each amended to
34 read as follows:

35 (1) A person is a covered entity as of the beginning of the first
36 compliance period and all subsequent compliance periods if the person
37 reported emissions under RCW 70A.15.2200 for any calendar year from
38 2015 through 2019, or if additional data provided as required by this
39 chapter indicates that emissions for any calendar year from 2015

1 through 2019 equaled or exceeded any of the following thresholds, or
2 if the person is a first jurisdictional deliverer and imports
3 electricity into the state during the compliance period:

4 (a) Where the person owns or operates a facility and the
5 facility's emissions equal or exceed 25,000 metric tons of carbon
6 dioxide equivalent;

7 (b) Where the person is a first jurisdictional deliverer and
8 generates electricity in the state and emissions associated with this
9 generation equals or exceeds 25,000 metric tons of carbon dioxide
10 equivalent;

11 (c)(i) Where the person is a first jurisdictional deliverer
12 importing electricity into the state and:

13 (A) For specified sources, the cumulative annual total of
14 emissions associated with the imported electricity exceeds 25,000
15 metric tons of carbon dioxide equivalent;

16 (B) For unspecified sources, the cumulative annual total of
17 emissions associated with the imported electricity exceeds 0 metric
18 tons of carbon dioxide equivalent; or

19 (C) For electricity purchased from a federal power marketing
20 administration pursuant to section 5(b) of the Pacific Northwest
21 electric power planning and conservation act of 1980, P.L. 96-501, if
22 the department determines such electricity is not from a specified
23 source, the cumulative annual total of emissions associated with the
24 imported electricity exceeds 25,000 metric tons of carbon dioxide
25 equivalent.

26 (ii) In consultation with any linked jurisdiction to the program
27 created by this chapter, by October 1, 2026, the department, in
28 consultation with the department of commerce and the utilities and
29 transportation commission, shall adopt by rule a methodology for
30 addressing imported electricity associated with a centralized
31 electricity market;

32 (d) Where the person is a supplier of fossil fuel other than
33 natural gas and from that fuel 25,000 metric tons or more of carbon
34 dioxide equivalent emissions would result from the full combustion or
35 oxidation, excluding the amounts for fuel products that are produced
36 or imported with a documented final point of delivery outside of
37 Washington and combusted outside of Washington; and

38 (e)(i) Where the person supplies natural gas in amounts that
39 would result in exceeding 25,000 metric tons of carbon dioxide
40 equivalent emissions if fully combusted or oxidized, excluding the

1 amounts for fuel products that are produced or imported with a
2 documented final point of delivery outside of Washington and
3 combusted outside of Washington, and excluding the amounts: (A)
4 Supplied to covered entities under (a) through (d) of this
5 subsection; and (B) delivered to opt-in entities;

6 (ii) Where the person who is not a natural gas company and has a
7 tariff with a natural gas company to deliver to an end-use customer
8 in the state in amounts that would result in exceeding 25,000 metric
9 tons of carbon dioxide equivalent emissions if fully combusted or
10 oxidized, excluding the amounts: (A) Supplied to covered entities
11 under (a) through (d) of this subsection; and (B) the amounts
12 delivered to opt-in entities;

13 (iii) Where the person is an end-use customer in the state who
14 directly purchases natural gas from a person that is not a natural
15 gas company and has the natural gas delivered through an interstate
16 pipeline to a distribution system owned by the purchaser in amounts
17 that would result in exceeding 25,000 metric tons of carbon dioxide
18 equivalent emissions if fully combusted or oxidized, excluding the
19 amounts: (A) Supplied to covered entities under (a) through (d) of
20 this subsection; and (B) delivered to opt-in entities.

21 (2) A person is a covered entity as of the beginning of the
22 second compliance period and all subsequent compliance periods if the
23 person reported emissions under RCW 70A.15.2200 or provided emissions
24 data as required by this chapter for any calendar year from 2023
25 through 2025, where the person owns or operates a waste to energy
26 facility utilized by a county and city solid waste management program
27 and the facility's emissions equal or exceed 25,000 metric tons of
28 carbon dioxide equivalent.

29 (3) A person is a covered entity as of the beginning of the third
30 compliance period, and all subsequent compliance periods if the
31 person reported emissions under RCW 70A.15.2200 or provided emissions
32 data as required by this chapter for 2027 or 2028, where the person
33 owns or operates a railroad company, as that term is defined in RCW
34 81.04.010, and the railroad company's emissions equal or exceed
35 25,000 metric tons of carbon dioxide equivalent.

36 (4) When a covered entity reports, during a compliance period,
37 emissions from a facility under RCW 70A.15.2200 that are below the
38 thresholds specified in subsection (1) or (2) of this section, the
39 covered entity continues to have a compliance obligation through the
40 current compliance period. When a covered entity reports emissions

1 below the threshold for each year during an entire compliance period,
2 or has ceased all processes at the facility requiring reporting under
3 RCW 70A.15.2200, the entity is no longer a covered entity as of the
4 beginning of the subsequent compliance period unless the department
5 provides notice at least 12 months before the end of the compliance
6 period that the facility's emissions were within 10 percent of the
7 threshold and that the person will continue to be designated as a
8 covered entity in order to ensure equity among all covered entities.
9 Whenever a covered entity ceases to be a covered entity, the
10 department shall notify the appropriate policy and fiscal committees
11 of the legislature of the name of the entity and the reason the
12 entity is no longer a covered entity.

13 (5) For types of emission sources described in subsection (1) of
14 this section that begin or modify operation after January 1, 2023,
15 and types of emission sources described in subsection (2) of this
16 section that begin or modify operation after 2027, coverage under the
17 program starts in the calendar year in which emissions from the
18 source exceed the applicable thresholds in subsection (1) or (2) of
19 this section, or upon formal notice from the department that the
20 source is expected to exceed the applicable emissions threshold,
21 whichever happens first. Sources meeting these conditions are
22 required to transfer their first allowances on the first transfer
23 deadline of the year following the year in which their emissions were
24 equal to or exceeded the emissions threshold.

25 (6) For emission sources described in subsection (1) of this
26 section that are in operation or otherwise active between 2015 and
27 2019 but were not required to report emissions for those years under
28 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,
29 coverage under the program starts in the calendar year following the
30 year in which emissions from the source exceed the applicable
31 thresholds in subsection (1) of this section as reported pursuant to
32 RCW 70A.15.2200 or provided as required by this chapter, or upon
33 formal notice from the department that the source is expected to
34 exceed the applicable emissions threshold for the first year that
35 source is required to report emissions, whichever happens first.
36 Sources meeting these criteria are required to transfer their first
37 allowances on the first transfer deadline of the year following the
38 year in which their emissions, as reported under RCW 70A.15.2200 or
39 provided as required by this chapter, were equal to or exceeded the
40 emissions threshold.

1 (7) The following emissions are exempt from coverage in the
2 program, regardless of the emissions reported under RCW 70A.15.2200
3 or provided as required by this chapter:

4 (a) Emissions from the combustion of aviation fuels;

5 (b) Emissions from watercraft fuels supplied in Washington that
6 are combusted outside of Washington;

7 (c) Emissions from a coal-fired electric generation facility
8 exempted from additional greenhouse gas limitations, requirements, or
9 performance standards under RCW 80.80.110;

10 (d) Carbon dioxide emissions from the combustion of biomass or
11 biofuels;

12 (e)(i) Motor vehicle fuel or special fuel that is used
13 exclusively for agricultural purposes by a farm fuel user, including
14 any such fuel regardless of whether it is dyed special fuel. This
15 exemption is available only if a buyer of motor vehicle fuel or
16 special fuel provides the seller with an exemption certificate in a
17 form and manner prescribed by the department. For the purposes of
18 this subsection, "agricultural purposes" and "farm fuel user" have
19 the same meanings as provided in RCW 82.08.865.

20 (ii) The department must determine a method for expanding the
21 exemption provided under (e)(i) of this subsection to include fuels
22 used for the purpose of transporting agricultural products on public
23 highways. The department must maintain this expanded exemption (~~for~~
24 ~~a period of five years, in order to provide the agricultural sector~~
25 ~~with a feasible transition period~~) permanently;

26 (f) Emissions from facilities with North American industry
27 classification system code 92811 (national security); and

28 (g) Emissions from municipal solid waste landfills that are
29 subject to, and in compliance with, chapter 70A.540 RCW.

30 (8) The department shall not require multiple covered entities to
31 have a compliance obligation for the same emissions. The department
32 may by rule authorize refineries, fuel suppliers, facilities using
33 natural gas, and natural gas utilities to provide by agreement for
34 the assumption of the compliance obligation for fuel or natural gas
35 supplied and combusted in the state. The department must be notified
36 of such an agreement at least 12 months prior to the compliance
37 obligation period for which the agreement is applicable.

38 (9)(a) The legislature intends to promote a growing and
39 sustainable economy and to avoid leakage of emissions from
40 manufacturing to other locations. The legislature further intends to

1 see innovative new businesses locate and grow in Washington that
2 contribute to Washington's prosperity and environmental objectives.

3 (b) Consistent with the intent of the legislature to avoid the
4 leakage of emissions to other jurisdictions, in achieving the state's
5 greenhouse gas limits in RCW 70A.45.020, the state, including lead
6 agencies under chapter 43.21C RCW, shall pursue the limits in a
7 manner that recognizes that the siting and placement of new or
8 expanded best-in-class facilities with lower carbon emitting
9 processes is in the economic and environmental interests of the state
10 of Washington.

11 (c) In conducting a life-cycle analysis, if required, for new or
12 expanded facilities that require review under chapter 43.21C RCW, a
13 lead agency must evaluate and attribute any potential net cumulative
14 greenhouse gas emissions resulting from the project as compared to
15 other existing facilities or best available technology including
16 best-in-class facilities and emerging lower carbon processes that
17 supply the same product or end use. The department may adopt rules to
18 determine the appropriate threshold for applying this analysis.

19 (d) Covered emissions from an entity that is or will be a covered
20 entity under this chapter may not be the basis for denial of a permit
21 for a new or expanded facility. Covered emissions must be included in
22 the analysis undertaken pursuant to (c) of this subsection. Nothing
23 in this subsection requires a lead agency or a permitting agency to
24 approve or issue a permit to a permit applicant, including to a new
25 or expanded fossil fuel project.

26 (e) A lead agency under chapter 43.21C RCW or a permitting agency
27 shall allow a new or expanded facility that is a covered entity or
28 opt-in entity to satisfy a mitigation requirement for its covered
29 emissions under this chapter and under any greenhouse gas emission
30 mitigation requirements for covered emissions under chapter 43.21C
31 RCW by submitting to the department the number of compliance
32 instruments equivalent to its covered emissions during a compliance
33 period.

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