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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2215

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State of Washington

69th Legislature

2026 Regular Session

**By** House Appropriations (originally sponsored by Representatives Fitzgibbon, Doglio, Ryu, Parshley, Peterson, Berry, Reed, Street, Duerr, Thomas, Ormsby, Goodman, Hill, and Pollet)

READ FIRST TIME 02/09/26.

1 AN ACT Relating to climate commitment act compliance obligations  
2 for fuels supplied or otherwise sold into Washington; amending RCW  
3 70A.65.080, 70A.15.2200, 70A.65.090, and 70A.65.200; adding a new  
4 section to chapter 39.26 RCW; creating a new section; and declaring  
5 an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the climate  
8 commitment act currently exempts from a compliance obligation fuels  
9 supplied in an amount below 25,000 metric tons of associated carbon  
10 dioxide equivalent annually. In establishing this exemption, it was  
11 never the intent of the legislature to put large fuel suppliers at a  
12 competitive disadvantage in the fuel supply marketplace relative to  
13 other fuel suppliers. However, the legislature finds that current  
14 trends in the fuel supply market indicate that the existing structure  
15 for assigning compliance obligations may establish incentives that  
16 lead to actions being taken by market participants that undercut  
17 principles of fair competition in the fuel supply market.

18 (2) So that the program created by this act does not create  
19 uneven economic conditions for businesses in Washington, it is the  
20 intent of the legislature that:

1 (a) The climate commitment act's assignment of compliance  
2 obligations associated with fuels ensure that there is a covered  
3 entity associated with all fuel supplied or otherwise produced,  
4 imported, or delivered in Washington, except in de minimis volumes;  
5 and

6 (b) The department of ecology should seek to enforce the  
7 requirements of the climate commitment act as they pertain to fuel  
8 suppliers equally and even-handedly throughout Washington, including  
9 with respect to different types of covered entities and in all  
10 geographic regions of the state, including in overburdened  
11 communities.

12 **Sec. 2.** RCW 70A.65.080 and 2025 c 282 s 2 are each amended to  
13 read as follows:

14 (1) A person is a covered entity as of the beginning of the first  
15 compliance period and all subsequent compliance periods if the person  
16 reported emissions under RCW 70A.15.2200 for any calendar year from  
17 2015 through 2019, or if additional data provided as required by this  
18 chapter indicates that emissions for any calendar year from 2015  
19 through 2019 equaled or exceeded any of the following thresholds, or  
20 if the person is a first jurisdictional deliverer and imports  
21 electricity into the state during the compliance period:

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

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

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

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

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

37 (C) For electricity purchased from a federal power marketing  
38 administration pursuant to section 5(b) of the Pacific Northwest  
39 electric power planning and conservation act of 1980, P.L. 96-501, if

1 the department determines such electricity is not from a specified  
2 source, the cumulative annual total of emissions associated with the  
3 imported electricity exceeds 25,000 metric tons of carbon dioxide  
4 equivalent.

5 (ii) In consultation with any linked jurisdiction to the program  
6 created by this chapter, by October 1, 2026, the department, in  
7 consultation with the department of commerce and the utilities and  
8 transportation commission, shall adopt by rule a methodology for  
9 addressing imported electricity associated with a centralized  
10 electricity market;

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

17 (e)(i) Where the person supplies natural gas in amounts that  
18 would result in exceeding 25,000 metric tons of carbon dioxide  
19 equivalent emissions if fully combusted or oxidized, excluding the  
20 amounts for fuel products that are produced or imported with a  
21 documented final point of delivery outside of Washington and  
22 combusted outside of Washington, and excluding the amounts: (A)  
23 Supplied to covered entities under (a) through (d) of this  
24 subsection; and (B) delivered to opt-in entities;

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

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

1           (2) (a) A person is a covered entity as of the beginning of the  
2 second compliance period and all subsequent compliance periods if  
3 ~~((the))~~;

4           (i) The person reported emissions under RCW 70A.15.2200 or  
5 provided emissions data as required by this chapter for any calendar  
6 year from 2023 through 2025, where the person owns or operates a  
7 waste to energy facility utilized by a county and city solid waste  
8 management program and the facility's emissions equal or exceed  
9 25,000 metric tons of carbon dioxide equivalent; or

10           (ii) Except as provided in (b) of this subsection, the person is  
11 a supplier of any combination of gasoline, diesel, biodiesel, or  
12 propane, and the person:

13           (A) Can demonstrate that it began producing, importing,  
14 delivering, or selling gasoline, diesel, biodiesel, or propane in any  
15 jurisdiction before January 1, 2023, and the person reported  
16 emissions under RCW 70A.15.2200 for any calendar year beginning in  
17 2027 or any year thereafter for any combination of gasoline, diesel,  
18 biodiesel, or propane supplied in Washington, the full combustion or  
19 oxidation of which would result in 25,000 metric tons or more of  
20 carbon dioxide equivalent emissions in a calendar year, excluding the  
21 amounts for fuel products that are produced or imported with a  
22 documented final point of delivery outside of Washington and  
23 combusted outside of Washington; or

24           (B) Began producing, importing, delivering, or selling gasoline,  
25 diesel, biodiesel, or propane in any jurisdiction on or after January  
26 1, 2023, and the person reported emissions under RCW 70A.15.2200 for  
27 any calendar year beginning in 2027 or any year thereafter for any  
28 combination of gasoline, diesel, biodiesel, or propane, the full  
29 combustion or oxidation of which would result in 500 metric tons or  
30 more of carbon dioxide equivalent emissions in a calendar year,  
31 excluding the amounts for fuel products that are produced or imported  
32 with a documented final point of delivery outside of Washington and  
33 combusted outside of Washington.

34           (b) The department may, by rule, lower or increase any of the  
35 thresholds specified in (a) (ii) (A) or (B) of this subsection if  
36 practicable and if necessary to ensure the achievement of the goals  
37 of this chapter or eliminate significant distortions in the fuel  
38 supply marketplace. A rule adopted under this subsection must take  
39 effect at least one year after the initiation of the rule making, and

1 no earlier than January 1st of the following calendar year of program  
2 implementation.

3 (3) A person is a covered entity as of the beginning of the third  
4 compliance period, and all subsequent compliance periods if the  
5 person reported emissions under RCW 70A.15.2200 or provided emissions  
6 data as required by this chapter for 2027 or 2028, where the person  
7 owns or operates a railroad company, as that term is defined in RCW  
8 81.04.010, and the railroad company's emissions equal or exceed  
9 25,000 metric tons of carbon dioxide equivalent.

10 (4) When a covered entity reports, during a compliance period,  
11 emissions from a facility under RCW 70A.15.2200 that are below the  
12 thresholds specified in subsection (1) or (2) of this section, the  
13 covered entity continues to have a compliance obligation through the  
14 current compliance period. When a covered entity reports emissions  
15 below the threshold for each year during an entire compliance period,  
16 or has ceased all processes at the facility requiring reporting under  
17 RCW 70A.15.2200, the entity is no longer a covered entity as of the  
18 beginning of the subsequent compliance period unless the department  
19 provides notice at least 12 months before the end of the compliance  
20 period that the facility's emissions were within 10 percent of the  
21 threshold and that the person will continue to be designated as a  
22 covered entity in order to ensure equity among all covered entities.  
23 Whenever a covered entity ceases to be a covered entity, the  
24 department shall notify the appropriate policy and fiscal committees  
25 of the legislature of the name of the entity and the reason the  
26 entity is no longer a covered entity.

27 (5) For types of emission sources described in subsection (1) of  
28 this section that begin or modify operation after January 1, 2023,  
29 and types of emission sources described in subsection (2) of this  
30 section that begin or modify operation after 2027, coverage under the  
31 program starts in the calendar year in which emissions from the  
32 source exceed the applicable thresholds in subsection (1) or (2) of  
33 this section, or upon formal notice from the department that the  
34 source is expected to exceed the applicable emissions threshold,  
35 whichever happens first. Sources meeting these conditions are  
36 required to transfer their first allowances on the first transfer  
37 deadline of the year following the year in which their emissions were  
38 equal to or exceeded the emissions threshold.

39 (6) For emission sources described in subsection (1) of this  
40 section that are in operation or otherwise active between 2015 and

1 2019 but were not required to report emissions for those years under  
2 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,  
3 coverage under the program starts in the calendar year following the  
4 year in which emissions from the source exceed the applicable  
5 thresholds in subsection (1) of this section as reported pursuant to  
6 RCW 70A.15.2200 or provided as required by this chapter, or upon  
7 formal notice from the department that the source is expected to  
8 exceed the applicable emissions threshold for the first year that  
9 source is required to report emissions, whichever happens first.  
10 Sources meeting these criteria are required to transfer their first  
11 allowances on the first transfer deadline of the year following the  
12 year in which their emissions, as reported under RCW 70A.15.2200 or  
13 provided as required by this chapter, were equal to or exceeded the  
14 emissions threshold.

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

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

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

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

24 (d) Carbon dioxide emissions from the combustion of biomass or  
25 biofuels;

26 (e)(i) Motor vehicle fuel or special fuel that is used  
27 exclusively for agricultural purposes by a farm fuel user. This  
28 exemption is available only if a buyer of motor vehicle fuel or  
29 special fuel provides the seller with an exemption certificate in a  
30 form and manner prescribed by the department. Prior to January 1,  
31 2030, this exemption is available whether motor vehicle fuel or  
32 special fuel is used to propel a motor vehicle or not, but beginning  
33 January 1, 2030, this exemption only applies to motor vehicle fuel or  
34 special fuel that the farm fuel user uses to propel a motor vehicle.

35 (ii) The department must determine a method for expanding the  
36 exemption provided under (e)(i) of this subsection to include fuels  
37 used for the purpose of transporting agricultural products on public  
38 highways. The department must maintain this expanded exemption until  
39 December 31, 2029, in order to provide the agricultural sector with a  
40 feasible transition period.

1 (iii) For the purposes of this subsection:

2 (A) "Agricultural purposes" and "farm fuel user" have the same  
3 meanings as provided in RCW 82.08.865;

4 (B) "Motor vehicle fuel" means gasoline, the chief use of which  
5 is as a fuel for the propulsion of motor vehicles or vessels; and

6 (C) "Special fuel" means diesel, liquefied petroleum gas (also  
7 called propane), and biodiesel;

8 (f) Emissions from facilities with North American industry  
9 classification system code 92811 (national security); ~~((and))~~

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

12 (h) Beginning January 1, 2027, emissions from the combustion,  
13 oxidation, other process, or end use of a lubricant, as that term is  
14 defined as of January 1, 2026 in 40 C.F.R. Sec. 98.6. This exemption  
15 applies regardless of whether a supplier demonstrates to the  
16 department that a lubricant is not combusted or oxidized.

17 (8) The department shall not require multiple covered entities to  
18 have a compliance obligation for the same emissions. The department  
19 may by rule authorize refineries, fuel suppliers, facilities using  
20 natural gas, and natural gas utilities to provide by agreement for  
21 the assumption of the compliance obligation for fuel or natural gas  
22 supplied and combusted in the state. The department must be notified  
23 of such an agreement at least 12 months prior to the compliance  
24 obligation period for which the agreement is applicable.

25 (9) (a) The legislature intends to promote a growing and  
26 sustainable economy and to avoid leakage of emissions from  
27 manufacturing to other locations. The legislature further intends to  
28 see innovative new businesses locate and grow in Washington that  
29 contribute to Washington's prosperity and environmental objectives.

30 (b) Consistent with the intent of the legislature to avoid the  
31 leakage of emissions to other jurisdictions, in achieving the state's  
32 greenhouse gas limits in RCW 70A.45.020, the state, including lead  
33 agencies under chapter 43.21C RCW, shall pursue the limits in a  
34 manner that recognizes that the siting and placement of new or  
35 expanded best-in-class facilities with lower carbon emitting  
36 processes is in the economic and environmental interests of the state  
37 of Washington.

38 (c) In conducting a life-cycle analysis, if required, for new or  
39 expanded facilities that require review under chapter 43.21C RCW, a  
40 lead agency must evaluate and attribute any potential net cumulative

1 greenhouse gas emissions resulting from the project as compared to  
2 other existing facilities or best available technology including  
3 best-in-class facilities and emerging lower carbon processes that  
4 supply the same product or end use. The department may adopt rules to  
5 determine the appropriate threshold for applying this analysis.

6 (d) Covered emissions from an entity that is or will be a covered  
7 entity under this chapter may not be the basis for denial of a permit  
8 for a new or expanded facility. Covered emissions must be included in  
9 the analysis undertaken pursuant to (c) of this subsection. Nothing  
10 in this subsection requires a lead agency or a permitting agency to  
11 approve or issue a permit to a permit applicant, including to a new  
12 or expanded fossil fuel project.

13 (e) A lead agency under chapter 43.21C RCW or a permitting agency  
14 shall allow a new or expanded facility that is a covered entity or  
15 opt-in entity to satisfy a mitigation requirement for its covered  
16 emissions under this chapter and under any greenhouse gas emission  
17 mitigation requirements for covered emissions under chapter 43.21C  
18 RCW by submitting to the department the number of compliance  
19 instruments equivalent to its covered emissions during a compliance  
20 period.

21 **Sec. 3.** RCW 70A.15.2200 and 2025 c 320 s 3 are each amended to  
22 read as follows:

23 (1) The board of any activated authority or the department, may  
24 classify air contaminant sources, by ordinance, resolution, rule or  
25 regulation, which in its judgment may cause or contribute to air  
26 pollution, according to levels and types of emissions and other  
27 characteristics which cause or contribute to air pollution, and may  
28 require registration or reporting or both for any such class or  
29 classes. Classifications made pursuant to this section may be for  
30 application to the area of jurisdiction of such authority, or the  
31 state as a whole or to any designated area within the jurisdiction,  
32 and shall be made with special reference to effects on health,  
33 economic and social factors, and physical effects on property.

34 (2) Except as provided in subsection (3) of this section, any  
35 person operating or responsible for the operation of air contaminant  
36 sources of any class for which the ordinances, resolutions, rules or  
37 regulations of the department or board of the authority, require  
38 registration or reporting shall register therewith and make reports  
39 containing information as may be required by such department or board

1 concerning location, size and height of contaminant outlets,  
2 processes employed, nature of the contaminant emission and such other  
3 information as is relevant to air pollution and available or  
4 reasonably capable of being assembled. In the case of emissions of  
5 greenhouse gases as defined in RCW 70A.45.010 the department shall  
6 adopt rules requiring reporting of those emissions. The department or  
7 board may require that such registration or reporting be accompanied  
8 by a fee, and may determine the amount of such fee for such class or  
9 classes: PROVIDED, That the amount of the fee shall only be to  
10 compensate for the costs of administering such registration or  
11 reporting program which shall be defined as initial registration and  
12 annual or other periodic reports from the source owner providing  
13 information directly related to air pollution registration, on-site  
14 inspections necessary to verify compliance with registration  
15 requirements, data storage and retrieval systems necessary for  
16 support of the registration program, emission inventory reports and  
17 emission reduction credits computed from information provided by  
18 sources pursuant to registration program requirements, staff review,  
19 including engineering or other reliable analysis for accuracy and  
20 currentness, of information provided by sources pursuant to  
21 registration program requirements, clerical and other office support  
22 provided in direct furtherance of the registration program, and  
23 administrative support provided in directly carrying out the  
24 registration program: PROVIDED FURTHER, That any such registration  
25 made with either the board or the department shall preclude a further  
26 registration and reporting with any other board or the department,  
27 except that emissions of greenhouse gases as defined in RCW  
28 70A.45.010 must be reported as required under subsection (5) of this  
29 section.

30 All registration program and reporting fees collected by the  
31 department shall be deposited in the air pollution control account.  
32 All registration program fees collected by the local air authorities  
33 shall be deposited in their respective treasuries.

34 (3) If a registration or report has been filed for a grain  
35 warehouse or grain elevator as required under this section,  
36 registration, reporting, or a registration program fee shall not,  
37 after January 1, 1997, again be required under this section for the  
38 warehouse or elevator unless the capacity of the warehouse or  
39 elevator as listed as part of the license issued for the facility has  
40 been increased since the date the registration or reporting was last

1 made. If the capacity of the warehouse or elevator listed as part of  
2 the license is increased, any registration or reporting required for  
3 the warehouse or elevator under this section must be made by the date  
4 the warehouse or elevator receives grain from the first harvest  
5 season that occurs after the increase in its capacity is listed in  
6 the license.

7 This subsection does not apply to a grain warehouse or grain  
8 elevator if the warehouse or elevator handles more than 10,000,000  
9 bushels of grain annually.

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

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

16 (b) A "license" is a license issued by the department of  
17 agriculture licensing a facility as a grain warehouse or grain  
18 elevator under chapter 22.09 RCW or a license issued by the federal  
19 government licensing a facility as a grain warehouse or grain  
20 elevator for purposes similar to those of licensure for the facility  
21 under chapter 22.09 RCW; and

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

23 (5)(a) The department shall adopt rules requiring persons to  
24 report emissions of greenhouse gases as defined in RCW 70A.45.010  
25 where those emissions from a single facility, or from fossil fuels  
26 other than those specified in RCW 70A.65.080(2)(a) that are sold in  
27 Washington by a single supplier or local distribution company, meet  
28 or exceed 10,000 metric tons of carbon dioxide equivalent annually,  
29 or from fossil fuels specified in RCW 70A.65.080(2)(a) sold in  
30 Washington by a single person specified in RCW 70A.65.080(2)(a)(ii),  
31 where those emissions meet or exceed the threshold specified in RCW  
32 70A.65.080(2)(a) for such persons. The department's rules may also  
33 require electric power entities to report emissions of greenhouse  
34 gases from all electricity that is purchased, sold, imported,  
35 exported, or exchanged in Washington. To the extent practicable, the  
36 department's rules must seek to minimize reporting burdens through  
37 the utilization of existing reports and disclosures for electric  
38 power entities who report greenhouse gas emissions that equal 10,000  
39 metric tons of carbon dioxide equivalent or less annually from all  
40 electricity that is purchased, sold, imported, exported, or exchanged

1 in Washington. The rules adopted by the department must support  
2 implementation of the program created in RCW 70A.65.060. In addition,  
3 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) (A) Except as provided in (a) (ii) (B) of this subsection, each  
8 annual report must include emissions data for the preceding calendar  
9 year and must be submitted to the department by March 31st of the  
10 year in which the report is due, except for an electric power entity,  
11 which must submit its report by June 1st of the year in which the  
12 report is due;

13 (B) To ensure that the program created in chapter 70A.65 RCW  
14 remains implementable and capable of fulfilling a linkage agreement  
15 under RCW 70A.65.210, if the department determines that timely  
16 reporting under this section is infeasible due to actions  
17 attributable to a third party upon whom the agency relies to collect  
18 emissions data from entities required to report including, but not  
19 limited to, the United States environmental protection agency, the  
20 department may, by rule, including emergency rule, require any  
21 greenhouse gas emissions reports for emissions in any combination of  
22 the years 2024 through 2030 to be submitted at an alternate date of  
23 no later than June 1, 2031.

24 (b) (i) The department may by rule include additional gases to the  
25 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has  
26 been designated as a greenhouse gas by the United States congress, by  
27 the United States environmental protection agency, or included in  
28 external greenhouse gas emission trading programs with which  
29 Washington has linked pursuant to RCW 70A.65.210. Prior to including  
30 additional gases to the definition of "greenhouse gas" in RCW  
31 70A.45.010, the department shall notify the appropriate committees of  
32 the legislature.

33 (ii) The department may by rule exempt persons who are required  
34 to report greenhouse gas emissions to the United States environmental  
35 protection agency and who emit less than 10,000 metric tons carbon  
36 dioxide equivalent annually.

37 (iii) The department must establish greenhouse gas emission  
38 reporting methodologies for persons who are required to report under  
39 this section. The department's reporting methodologies must be  
40 designed to address the needs of ensuring accuracy of reported

1 emissions and maintaining consistency over time, and may, to the  
2 extent practicable, be similar to reporting methodologies of  
3 jurisdictions with which Washington has entered into a linkage  
4 agreement.

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

8 (c) The department shall share any reporting information reported  
9 to it with the local air authority in which the person reporting  
10 under the rules adopted by the department operates.

11 (d) The fee provisions in subsection (2) of this section apply to  
12 reporting of emissions of greenhouse gases. Persons required to  
13 report under (a) of this subsection who fail to report or pay the fee  
14 required in subsection (2) of this section are subject to enforcement  
15 penalties under this chapter. The department shall enforce the  
16 reporting rule requirements. When a person that holds a compliance  
17 obligation under RCW 70A.65.080 fails to submit an emissions data  
18 report or fails to obtain a positive emissions data verification  
19 statement in accordance with (f)(ii) of this subsection, the  
20 department may assign an emissions level for that person.

21 (e) The energy facility site evaluation council shall,  
22 simultaneously with the department, adopt rules that impose  
23 greenhouse gas reporting requirements in site certifications on  
24 owners or operators of a facility permitted by the energy facility  
25 site evaluation council. The greenhouse gas reporting requirements  
26 imposed by the energy facility site evaluation council must be the  
27 same as the greenhouse gas reporting requirements imposed by the  
28 department. The department shall share any information reported to it  
29 from facilities permitted by the energy facility site evaluation  
30 council with the council, including notice of a facility that has  
31 failed to report as required. The energy facility site evaluation  
32 council shall contract with the department to monitor the reporting  
33 requirements adopted under this section.

34 (f)(i) The department must establish by rule the methods of  
35 verifying the accuracy of emissions reports.

36 (ii) Verification requirements apply at a minimum to persons  
37 required to report under (a) of this subsection with emissions that  
38 equal or exceed 25,000 metric tons of carbon dioxide equivalent  
39 emissions, including carbon dioxide from biomass-derived fuels, or to  
40 persons who have a compliance obligation under RCW 70A.65.080 in any

1 year of the current compliance period. The department may adopt rules  
2 to accept verification reports from another jurisdiction with a  
3 linkage agreement pursuant to RCW 70A.65.180 in cases where the  
4 department deems that the methods or procedures are substantively  
5 similar.

6 (g)(i) The definitions in RCW 70A.45.010 apply throughout this  
7 subsection (5) unless the context clearly requires otherwise.

8 (ii) For the purpose of this subsection (5), the term "supplier"  
9 includes: (A) Suppliers that produce, import, or deliver, or any  
10 combination of producing, importing, or delivering, a quantity of  
11 fuel products in Washington that, if completely combusted, oxidized,  
12 or used in other processes, would result in the release of greenhouse  
13 gases in Washington equivalent to or higher than the threshold  
14 established under (a) of this subsection; and (B) suppliers of carbon  
15 dioxide that produce, import, or deliver a quantity of carbon dioxide  
16 in Washington that, if released, would result in emissions equivalent  
17 to or higher than the threshold established under (a) of this  
18 subsection.

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

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

29 (v) For the purpose of this subsection (5), the term "electric  
30 power entity" includes any of the following that supply electric  
31 power in Washington with associated emissions of greenhouse gases  
32 equal to or above the threshold established under (a) of this  
33 subsection: (A) Electricity importers and exporters; (B) retail  
34 providers, including multijurisdictional retail providers; and (C)  
35 first jurisdictional deliverers, as defined in RCW 70A.65.010, not  
36 otherwise included here.

37 **Sec. 4.** RCW 70A.65.090 and 2021 c 316 s 11 are each amended to  
38 read as follows:

1 (1) All covered entities must register to participate in the  
2 program, following procedures adopted by the department by rule.

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

6 (3) A person responsible for greenhouse gas emissions that is not  
7 a covered entity may voluntarily participate in the program by  
8 registering as an opt-in entity. An opt-in entity must satisfy the  
9 same registration requirements as covered entities. Once registered,  
10 an opt-in entity is allowed to participate as a covered entity in  
11 auctions and must assume the same compliance obligation to transfer  
12 compliance instruments equal to their emissions at the appointed  
13 transfer dates. An opt-in entity may opt out of the program at the  
14 end of any compliance period by providing written notice to the  
15 department at least six months prior to the end of the compliance  
16 period. The opt-in entity continues to have a compliance obligation  
17 through the current compliance period. An opt-in entity is not  
18 eligible to receive allowances directly distributed under RCW  
19 70A.65.110, 70A.65.120, or 70A.65.130.

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

24 (5) Federally recognized tribes and federal agencies may elect to  
25 participate in the program as opt-in entities or general market  
26 participants.

27 (6) The department shall use a secure, online electronic tracking  
28 system to: Register entities in the state program; issue compliance  
29 instruments; track ownership of compliance instruments; enable and  
30 record compliance instrument transfers; facilitate program  
31 compliance; and support market oversight.

32 (7) The department must use an electronic tracking system that  
33 allows two accounts to each covered or opt-in entity:

34 (a) A compliance account where the compliance instruments are  
35 transferred to the department for retirement. Compliance instruments  
36 in compliance accounts may not be sold, traded, or otherwise provided  
37 to another account or person.

38 (b) A holding account that is used when a registered entity is  
39 interested in trading allowances. Allowances in holding accounts may  
40 be bought, sold, transferred to another registered entity, or traded.

1 The amount of allowances a registered entity may have in its holding  
2 account is constrained by the holding limit as determined by the  
3 department by rule. Information about the contents of each holding  
4 account, including but not limited to the number of allowances in the  
5 account, must be displayed on a regularly maintained and searchable  
6 public website established and updated by the department.

7 (8) Registered general market participants are each allowed an  
8 account, to hold, trade, sell, or transfer allowances.

9 (9) The department shall maintain an account for the purpose of  
10 retiring allowances transferred by registered entities and from the  
11 voluntary renewable reserve account.

12 (10) The department shall maintain a public roster of all covered  
13 entities, opt-in entities, and general market participants on the  
14 department's public website. The roster must specify the provision of  
15 RCW 70A.65.080 (1), (2), or (3) under which each covered entity is  
16 determined to be a covered entity, and must identify any fuel sellers  
17 described in RCW 70A.65.200(1)(b).

18 (11) The department shall include a voluntary renewable reserve  
19 account.

20 **Sec. 5.** RCW 70A.65.200 and 2024 c 352 s 8 are each amended to  
21 read as follows:

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

27 (b) In addition to the penalty provisions of this section, a  
28 seller of any combination of gasoline, diesel, biodiesel, and propane  
29 fuel must meet the requirements of section 6 of this act in order to  
30 be eligible to receive any contract awarded by the state, any state  
31 agency, or any municipality.

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

1 receiving notification, the department shall issue an order requiring  
2 the entity to submit the penalty allowances.

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

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

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

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

20 (7) Until the department enters into a linkage agreement or until  
21 the end of the first compliance period, whichever is sooner, the  
22 department may reduce the amount of the penalty by adjusting the  
23 monetary amount or the number of penalty allowances described in  
24 subsections (2) and (3) of this section.

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

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

32 (b) No state agency may adopt or enforce a greenhouse gas pricing  
33 or market-based emissions cap and reduce program for stationary  
34 sources, or adopt or enforce emission limitations on greenhouse gas  
35 emissions from stationary sources except as:

36 (i) Provided in this chapter;

37 (ii) Authorized or directed by a state statute in effect as of  
38 July 1, 2022; or

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

1 (c) This chapter preempts the provisions of chapter 173-442 WAC,  
2 and the department shall repeal chapter 173-442 WAC.

3 ~~((10) (a) By December 1, 2023, the office of financial management  
4 must submit a report to the appropriate committees of the legislature  
5 that summarizes two categories of state laws other than this chapter:~~

6 ~~(i) Laws that regulate greenhouse gas emissions from stationary  
7 sources, and the greenhouse gas emission reductions attributable to  
8 each chapter, relative to a baseline in which this chapter and all  
9 other state laws that regulate greenhouse gas emissions are presumed  
10 to remain in effect; and~~

11 ~~(ii) Laws whose implementation may effectuate reductions in  
12 greenhouse gas emissions from stationary sources.~~

13 ~~(b) The state laws that the office of financial management may  
14 address in completing the report required in this subsection include,  
15 but are not limited to:~~

16 ~~(i) Chapter 19.27A RCW;~~

17 ~~(ii) Chapter 19.280 RCW;~~

18 ~~(iii) Chapter 19.405 RCW;~~

19 ~~(iv) Chapter 36.165 RCW;~~

20 ~~(v) Chapter 43.21F RCW;~~

21 ~~(vi) Chapter 70.30 RCW;~~

22 ~~(vii) Chapter 70A.15 RCW;~~

23 ~~(viii) Chapter 70A.45 RCW;~~

24 ~~(ix) Chapter 70A.60 RCW;~~

25 ~~(x) Chapter 70A.535 RCW;~~

26 ~~(xi) Chapter 80.04 RCW;~~

27 ~~(xii) Chapter 80.28 RCW;~~

28 ~~(xiii) Chapter 80.70 RCW;~~

29 ~~(xiv) Chapter 80.80 RCW; and~~

30 ~~(xv) Chapter 81.88 RCW.~~

31 ~~(c) The office of financial management may contract for all or  
32 part of the work product required under this subsection.))~~

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.26  
34 RCW to read as follows:

35 (1) A seller of any combination of gasoline, diesel, biodiesel,  
36 and propane fuel is only eligible to receive a contract awarded by  
37 the state, any state agency, or any municipality, if the seller meets  
38 one of the following criteria:

1 (a) The seller is registered with the department of ecology under  
2 chapter 70A.65 RCW and is determined by the department of ecology to  
3 be in compliance with the requirements of chapter 70A.65 RCW;

4 (b) The seller has emissions below the threshold that would make  
5 the seller a covered entity under chapter 70A.65 RCW, but reports  
6 emissions to the department consistent with RCW 70A.15.2200; or

7 (c) The seller can provide documentation, including but not  
8 limited to invoices, demonstrating that the fuel being sold includes  
9 the cost of compliance with the requirements of chapter 70A.65 RCW.

10 (2) For purposes of this section, "municipality" means every  
11 city, county, town, special purpose district, political subdivision,  
12 or instrumentality of the state.

13 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of  
15 the state government and its existing public institutions, and takes  
16 effect immediately.

17 NEW SECTION. **Sec. 8.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

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