
SUBSTITUTE HOUSE BILL 2416

State of Washington

69th Legislature

2026 Regular Session

By House Environment & Energy (originally sponsored by Representatives Hill, Ormsby, Parshley, Schmidt, Scott, Peterson, Obras, Shavers, Engell, and Graham)

READ FIRST TIME 02/04/26.

1 AN ACT Relating to fair treatment of waste to energy facilities
2 under the climate commitment act; amending RCW 70A.65.080,
3 43.21C.520, 70A.65.400, and 70A.65.160; reenacting and amending RCW
4 43.21B.110 and 43.21B.300; adding a new chapter to Title 70A RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds, based on a study
8 published by the department of ecology in March 2024, that the only
9 waste to energy system in the state will emit fewer greenhouse gases
10 than the alternative of managing, hauling, and disposing of that
11 system's waste to landfills in other communities. The legislature
12 intends to treat all municipal solid waste management systems fairly
13 and equivalently throughout the state under the Washington cap and
14 invest program. This act achieves more equal treatment of all
15 communities with municipal solid waste management systems under the
16 Washington cap and invest program by creating greenhouse gas emission
17 reduction and other requirements that recognize the unique status of
18 the state's only waste to energy facility.

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

1 (1) A person is a covered entity as of the beginning of the first
2 compliance period and all subsequent compliance periods if the person
3 reported emissions under RCW 70A.15.2200 for any calendar year from
4 2015 through 2019, or if additional data provided as required by this
5 chapter indicates that emissions for any calendar year from 2015
6 through 2019 equaled or exceeded any of the following thresholds, or
7 if the person is a first jurisdictional deliverer and imports
8 electricity into the state during the compliance period:

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

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

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

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

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

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

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

37 (d) Where the person is a supplier of fossil fuel other than
38 natural gas and from that fuel 25,000 metric tons or more of carbon
39 dioxide equivalent emissions would result from the full combustion or
40 oxidation, excluding the amounts for fuel products that are produced

1 or imported with a documented final point of delivery outside of
2 Washington and combusted outside of Washington; and

3 (e) (i) Where the person supplies natural gas in amounts that
4 would result in exceeding 25,000 metric tons of carbon dioxide
5 equivalent emissions if fully combusted or oxidized, excluding the
6 amounts for fuel products that are produced or imported with a
7 documented final point of delivery outside of Washington and
8 combusted outside of Washington, and excluding the amounts: (A)
9 Supplied to covered entities under (a) through (d) of this
10 subsection; and (B) delivered to opt-in entities;

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

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

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

34 ~~(3))~~) A person is a covered entity as of the beginning of the
35 third compliance period, and all subsequent compliance periods if the
36 person reported emissions under RCW 70A.15.2200 or provided emissions
37 data as required by this chapter for 2027 or 2028, where the person
38 owns or operates a railroad company, as that term is defined in RCW
39 81.04.010, and the railroad company's emissions equal or exceed
40 25,000 metric tons of carbon dioxide equivalent.

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

18 ~~((5))~~ (4) For types of emission sources described in subsection
19 (1) of this section that begin or modify operation after January 1,
20 2023, ~~((and types of emission sources described in subsection (2) of
21 this section that begin or modify operation after 2027,))~~ coverage
22 under the program starts in the calendar year in which emissions from
23 the source exceed the applicable thresholds in subsection (1) ~~((or
24 (2)))~~ of this section, or upon formal notice from the department that
25 the source is expected to exceed the applicable emissions threshold,
26 whichever happens first. Sources meeting these conditions are
27 required to transfer their first allowances on the first transfer
28 deadline of the year following the year in which their emissions were
29 equal to or exceeded the emissions threshold.

30 ~~((6))~~ (5) For emission sources described in subsection (1) of
31 this section that are in operation or otherwise active between 2015
32 and 2019 but were not required to report emissions for those years
33 under RCW 70A.15.2200 for the reporting periods between 2015 and
34 2019, coverage under the program starts in the calendar year
35 following the year in which emissions from the source exceed the
36 applicable thresholds in subsection (1) of this section as reported
37 pursuant to RCW 70A.15.2200 or provided as required by this chapter,
38 or upon formal notice from the department that the source is expected
39 to exceed the applicable emissions threshold for the first year that
40 source is required to report emissions, whichever happens first.

1 Sources meeting these criteria are required to transfer their first
2 allowances on the first transfer deadline of the year following the
3 year in which their emissions, as reported under RCW 70A.15.2200 or
4 provided as required by this chapter, were equal to or exceeded the
5 emissions threshold.

6 ~~((7))~~ (6) The following emissions are exempt from coverage in
7 the program, regardless of the emissions reported under RCW
8 70A.15.2200 or provided as required by this chapter:

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

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

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

15 (d) Carbon dioxide emissions from the combustion of biomass or
16 biofuels;

17 (e) (i) Motor vehicle fuel or special fuel that is used
18 exclusively for agricultural purposes by a farm fuel user. This
19 exemption is available only if a buyer of motor vehicle fuel or
20 special fuel provides the seller with an exemption certificate in a
21 form and manner prescribed by the department. Prior to January 1,
22 2030, this exemption is available whether motor vehicle fuel or
23 special fuel is used to propel a motor vehicle or not, but beginning
24 January 1, 2030, this exemption only applies to motor vehicle fuel or
25 special fuel that the farm fuel user uses to propel a motor vehicle.

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

32 (iii) For the purposes of this subsection:

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

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

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

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

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

3 (h) Emissions from a waste to energy facility utilized by a
4 county and city solid waste management program that is subject to,
5 and in compliance with chapter 70A.--- RCW (the new chapter created
6 in section 12 of this act).

7 ~~((8))~~ (7) The department shall not require multiple covered
8 entities to have a compliance obligation for the same emissions. The
9 department may by rule authorize refineries, fuel suppliers,
10 facilities using natural gas, and natural gas utilities to provide by
11 agreement for the assumption of the compliance obligation for fuel or
12 natural gas supplied and combusted in the state. The department must
13 be notified of such an agreement at least 12 months prior to the
14 compliance obligation period for which the agreement is applicable.

15 ~~((9))~~ (8)(a) The legislature intends to promote a growing and
16 sustainable economy and to avoid leakage of emissions from
17 manufacturing to other locations. The legislature further intends to
18 see innovative new businesses locate and grow in Washington that
19 contribute to Washington's prosperity and environmental objectives.

20 (b) Consistent with the intent of the legislature to avoid the
21 leakage of emissions to other jurisdictions, in achieving the state's
22 greenhouse gas limits in RCW 70A.45.020, the state, including lead
23 agencies under chapter 43.21C RCW, shall pursue the limits in a
24 manner that recognizes that the siting and placement of new or
25 expanded best-in-class facilities with lower carbon emitting
26 processes is in the economic and environmental interests of the state
27 of Washington.

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

36 (d) Covered emissions from an entity that is or will be a covered
37 entity under this chapter may not be the basis for denial of a permit
38 for a new or expanded facility. Covered emissions must be included in
39 the analysis undertaken pursuant to (c) of this subsection. Nothing
40 in this subsection requires a lead agency or a permitting agency to

1 approve or issue a permit to a permit applicant, including to a new
2 or expanded fossil fuel project.

3 (e) A lead agency under chapter 43.21C RCW or a permitting agency
4 shall allow a new or expanded facility that is a covered entity or
5 opt-in entity to satisfy a mitigation requirement for its covered
6 emissions under this chapter and under any greenhouse gas emission
7 mitigation requirements for covered emissions under chapter 43.21C
8 RCW by submitting to the department the number of compliance
9 instruments equivalent to its covered emissions during a compliance
10 period.

11 NEW SECTION. **Sec. 3.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Allowance" has the same meaning as in RCW 70A.65.010.

15 (2) "Baseline" means the average greenhouse gas emissions from a
16 waste to energy facility during the calendar years 2014 through 2016.

17 (3) "Carbon dioxide equivalents" has the same meaning as in RCW
18 70A.65.010.

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

20 (5) "Greenhouse gas" includes carbon dioxide, methane, nitrous
21 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and
22 any other gas or gases designated by the department by rule.

23 (6) "Municipal solid waste landfill" has the same meaning as in
24 RCW 70A.540.010.

25 (7) "Waste to energy facility" means a waste to energy facility
26 utilized by a county and city solid waste management program with
27 baseline annual greenhouse gas emissions of at least 25,000 metric
28 tons of carbon dioxide equivalents.

29 NEW SECTION. **Sec. 4.** (1) The owner or operator of a waste to
30 energy facility must achieve the following greenhouse gas emission
31 reductions associated with the operations of the waste to energy
32 facility:

33 (a) By December 31, 2030, and each year thereafter until 2040, a
34 20 percent reduction in greenhouse gas emissions, relative to
35 baseline levels;

36 (b) By December 31, 2040, and each year thereafter until 2050, a
37 70 percent reduction in greenhouse gas emissions relative to baseline
38 levels; and

1 (c) By December 31, 2050, and each year thereafter, a 95 percent
2 reduction in greenhouse gas emissions relative to baseline levels.

3 (2) For purposes of subsection (1) of this section, the owner or
4 operator of a facility must count towards the emissions associated
5 with the waste to energy facility the emissions associated with solid
6 waste diverted to a municipal solid waste landfill, consistent with a
7 methodology approved by the department.

8 NEW SECTION. **Sec. 5.** (1) By December 1, 2030, the owner or
9 operator of a waste to energy facility must provide a report to the
10 department and the department of commerce. The report must include:

11 (a) A proposed waste reduction, material recovery, and greenhouse
12 gas emission reduction plan that incorporates zero waste principles
13 and will achieve the 2040 and 2050 greenhouse gas emission reduction
14 standards established in section 4(1) of this act;

15 (b) (i) A cost-benefit analysis that takes into account both the
16 qualitative and quantitative benefits and costs, including benefits
17 and costs to overburdened communities and vulnerable populations, of
18 at least the following alternatives:

19 (A) Closing the waste to energy facility;

20 (B) Replacing the waste to energy facility;

21 (C) Refurbishing the waste to energy facility; and

22 (D) Diverting additional types or sources of waste from the
23 facility to other means of solid waste management;

24 (ii) The owner or operator of the waste to energy facility must
25 hire an independent third party to carry out the cost-benefit
26 analysis.

27 (2) In the plan, emission reductions may be proposed to be
28 achieved by any combination of carbon capture and sequestration at
29 the waste to energy facility, waste reduction activities, recycling
30 and reuse activities, energy conservation, industrial symbiosis, or
31 other greenhouse gas emission reduction strategies identified by the
32 owners or operators of the waste to energy facility.

33 (3) In developing the report and plan, the owners or operators of
34 the waste to energy facility must consult with local municipally
35 created stakeholder and community advisory bodies formed with the
36 purpose of advising on climate or sustainability decisions. The
37 proposed independent third party's contract scope and a draft of the
38 report and plan must be presented in a public forum with an
39 opportunity for public comment prior to a final decision regarding

1 the scope of the independent third party's contract and prior to a
2 final decision to approve the draft report and plan.

3 (4) (a) Within 90 days of receipt, the department, in consultation
4 with the department of commerce must approve, disapprove, or
5 conditionally approve the report and plan submitted under this
6 section. If the department disapproves of a report and plan, the
7 owner or operator of the waste to energy facility must resubmit a
8 revised report and plan within a time frame of not less than 60 days,
9 as specified by the department in its notice of disapproval. A waste
10 to energy facility owner or operator that has not received approval
11 or conditional approval from the department on a revised and
12 resubmitted report and plan prior to a deadline established by the
13 department is subject to penalties as provided in section 6 of this
14 act.

15 (b) The department may not approve a plan that it determines is
16 unlikely to allow the owner or operator of the waste to energy
17 facility to achieve the standards established in section 4(1) of this
18 act.

19 (5) The owner or operator of a waste to energy facility must
20 implement the plan approved by the department, and operate the
21 facility and take other actions, as appropriate, consistent with
22 provisions of a plan approved by the department.

23 NEW SECTION. **Sec. 6.** (1) The department may adopt rules as
24 necessary for implementing, administering, and enforcing this
25 chapter.

26 (2) Except as provided in subsection (3) of this section, a
27 person violating a requirement of this chapter, a rule adopted under
28 this chapter, or an order issued under this chapter, is subject to a
29 civil penalty not to exceed \$5,000 for each violation in the case of
30 a first offense. Repeat violations are subject to a civil penalty not
31 to exceed \$10,000 for each repeat offense.

32 (3) (a) For a failure to meet the 2030 gas emission reduction
33 standards specified in section 4 of this act in any year through
34 2039, a person must pay a penalty equal to the average price of one
35 allowance during the preceding calendar year of implementation of
36 chapter 70A.65 RCW for each metric ton of carbon dioxide equivalent
37 above the greenhouse gas emission reduction target.

38 (b) For a failure to meet the 2040 gas emission reduction
39 standards specified in section 4 of this act in any year through

1 2049, or for a failure to meet the 2050 gas emission reduction
2 standards specified in section 4 of this act in any year beginning
3 with calendar year 2050, a person must pay a penalty equal to the
4 average price of two allowances during the preceding calendar year of
5 implementation of chapter 70A.65 RCW for each metric ton of carbon
6 dioxide equivalent above the greenhouse gas emission reduction
7 target.

8 (c) For purposes of this subsection, the average price of one
9 allowance during a calendar year of implementation of chapter 70A.65
10 RCW must be measured using the mean price of allowances sold at
11 auction during the calendar year, not including the price of
12 allowances sold at any reserve auctions held during that calendar
13 year, weighted according to the number of allowances sold at each
14 such auction.

15 (4) The department may issue a corrective action order to a
16 person in violation of the requirements of this chapter.

17 (5) Any penalty provided for in this section, and any order
18 issued by the department under this chapter, may be appealed to the
19 pollution control hearings board.

20 (6) All penalties collected under this chapter shall be deposited
21 in the price ceiling unit emission reduction investment account
22 created in RCW 70A.65.160.

23 **Sec. 7.** RCW 43.21B.110 and 2025 c 327 s 1, 2025 c 319 s 6, 2025
24 c 316 s 301, 2025 c 314 s 13, 2025 c 311 s 7, and 2025 c 58 s 1008
25 are each reenacted and amended to read as follows:

26 (1) The hearings board shall only have jurisdiction to hear and
27 decide appeals from the following decisions of the department, the
28 director, local conservation districts, the air pollution control
29 boards or authorities as established pursuant to chapter 70A.15 RCW,
30 local health departments, the department of natural resources, the
31 department of fish and wildlife, the parks and recreation commission,
32 and authorized public entities described in chapter 79.100 RCW:

33 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
34 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.205.740,
35 70A.205.280, 70A.205.545, 70A.355.070, 70A.430.070, 70A.500.260,
36 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060,
37 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130,
38 70A.245.140, 70A.65.200, 70A.455.090, 70A.535.180, 70A.550.030,
39 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,

1 70A.565.030, 76.04.205, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
2 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

3 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
4 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
5 70A.15.6010, 70A.205.740, 70A.205.280, 70A.214.140, 70A.300.120,
6 70A.350.070, 70A.245.020, 70A.65.200, 70A.535.180, 70A.505.100,
7 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,
8 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,
9 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

10 (c) Except as provided in RCW 90.03.210(2), the issuance,
11 modification, or termination of any permit, certificate, or license
12 by the department or any air authority in the exercise of its
13 jurisdiction, including the issuance or termination of a waste
14 disposal permit, the denial of an application for a waste disposal
15 permit, the modification of the conditions or the terms of a waste
16 disposal permit, a decision to approve or deny a solid waste
17 management plan under RCW 70A.205.055, approval or denial of an
18 application for a beneficial use determination under RCW 70A.205.260,
19 an application for a change under RCW 90.03.383, or a permit to
20 distribute reclaimed water under RCW 90.46.220.

21 (d) Decisions of local health departments regarding the granting
22 or denial of solid waste permits pursuant to chapter 70A.205 RCW,
23 including appeals by the department as provided in RCW 70A.205.130.

24 (e) Decisions of local health departments regarding the issuance
25 and enforcement of permits to use or dispose of biosolids under RCW
26 70A.226.090.

27 (f) Decisions of the department regarding waste-derived
28 fertilizer or micronutrient fertilizer under RCW 15.54.820.

29 (g) Decisions of local conservation districts related to the
30 denial of approval or denial of certification of a dairy nutrient
31 management plan; conditions contained in a plan; application of any
32 dairy nutrient management practices, standards, methods, and
33 technologies to a particular dairy farm; and failure to adhere to the
34 plan review and approval timelines in RCW 90.64.026 as provided in
35 RCW 90.64.028.

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

39 (i) Decisions of the department of natural resources, the
40 department of fish and wildlife, and the department that are

1 reviewable under chapter 76.09 RCW, and the department of natural
2 resources' appeals of county, city, or town objections under RCW
3 76.09.050(7).

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

6 (k) Decisions of the department of fish and wildlife to issue,
7 deny, condition, or modify a hydraulic project approval permit under
8 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
9 comply, to issue a civil penalty, or to issue a notice of intent to
10 disapprove applications.

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

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

17 (n) Decisions of the department of ecology that are appealable
18 under RCW 70A.245.020 to set recycled minimum postconsumer content
19 for products or to temporarily exclude types of products in plastic
20 containers from minimum postconsumer recycled content requirements.

21 (o) Orders by the department of ecology under RCW 70A.455.080.

22 (p) Decisions by the department of ecology under RCW
23 70A.208.150(5) regarding a proposal by a producer responsibility
24 organization to count materials sent to an alternative recycling
25 facility towards recycling performance targets.

26 (q) Decisions of the department of natural resources under RCW
27 76.04.205.

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

30 (a) Hearings required by law to be conducted by the shorelines
31 hearings board pursuant to chapter 90.58 RCW, except where appeals to
32 the pollution control hearings board and appeals to the shorelines
33 hearings board have been consolidated pursuant to RCW 43.21B.340.

34 (b) Hearings conducted by the department pursuant to RCW
35 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
36 70A.15.3110, and 90.44.180.

37 (c) Appeals of decisions by the department under RCW 90.03.110
38 and 90.44.220.

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

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

4 **Sec. 8.** RCW 43.21B.300 and 2025 c 316 s 302 and 2025 c 58 s 3008
5 are each reenacted and amended to read as follows:

6 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
7 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
8 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
9 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
10 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,
11 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
12 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be
13 imposed by a notice in writing, either by certified mail with return
14 receipt requested or by personal service, to the person incurring the
15 penalty from the department or the local air authority, describing
16 the violation with reasonable particularity. For penalties issued by
17 local air authorities, within 30 days after the notice is received,
18 the person incurring the penalty may apply in writing to the
19 authority for the remission or mitigation of the penalty. Upon
20 receipt of the application, the authority may remit or mitigate the
21 penalty upon whatever terms the authority in its discretion deems
22 proper. The authority may ascertain the facts regarding all such
23 applications in such reasonable manner and under such rules as it may
24 deem proper and shall remit or mitigate the penalty only upon a
25 demonstration of extraordinary circumstances such as the presence of
26 information or factors not considered in setting the original
27 penalty.

28 (2) Any penalty imposed under this section may be appealed to the
29 pollution control hearings board in accordance with this chapter if
30 the appeal is filed with the hearings board and served on the
31 department or authority 30 days after the date of receipt by the
32 person penalized of the notice imposing the penalty or 30 days after
33 the date of receipt of the notice of disposition by a local air
34 authority of the application for relief from penalty.

35 (3) A penalty shall become due and payable on the later of:

36 (a) 30 days after receipt of the notice imposing the penalty;

37 (b) 30 days after receipt of the notice of disposition by a local
38 air authority on application for relief from penalty, if such an
39 application is made; or

1 (c) 30 days after receipt of the notice of decision of the
2 hearings board if the penalty is appealed.

3 (4) If the amount of any penalty is not paid to the department
4 within 30 days after it becomes due and payable, the attorney
5 general, upon request of the department, shall bring an action in the
6 name of the state of Washington in the superior court of Thurston
7 county, or of any county in which the violator does business, to
8 recover the penalty. If the amount of the penalty is not paid to the
9 authority within 30 days after it becomes due and payable, the
10 authority may bring an action to recover the penalty in the superior
11 court of the county of the authority's main office or of any county
12 in which the violator does business. In these actions, the procedures
13 and rules of evidence shall be the same as in an ordinary civil
14 action.

15 (5) All penalties recovered shall be paid into the state treasury
16 and credited to the general fund except the following:

17 (a) Penalties imposed pursuant to RCW 18.104.155 must be credited
18 to the reclamation account as provided in RCW 18.104.155(7);

19 (b) Penalties imposed pursuant to RCW 70A.15.3160 must be
20 disposed of pursuant to RCW 70A.15.3160;

21 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
22 70A.430.070, 70A.555.110, 70A.560.020, and 70A.565.030 must be
23 credited to the model toxics control operating account created in RCW
24 70A.305.180;

25 (d) Penalties imposed pursuant to RCW 70A.245.040, 70A.245.050,
26 and chapter 70A.208 RCW must be credited to the recycling enhancement
27 account created in RCW 70A.245.100;

28 (e) Penalties imposed pursuant to RCW 70A.500.260 must be
29 deposited into the electronic products recycling account created in
30 RCW 70A.500.130;

31 (f) Penalties imposed pursuant to RCW 70A.65.200 must be credited
32 to the climate investment account created in RCW 70A.65.250;

33 (g) Penalties imposed pursuant to RCW 90.56.330 must be credited
34 to the coastal protection fund established in RCW 90.48.390; (~~and~~)

35 (h) Penalties imposed pursuant to section 6 of this act must be
36 deposited in the price ceiling unit emission reduction investment
37 account established in RCW 70A.65.160(3); and

38 (i) Penalties imposed pursuant to RCW 70A.355.070 must be
39 credited to the underground storage tank account created in RCW
40 70A.355.090.

1 **Sec. 9.** RCW 43.21C.520 and 2021 c 316 s 34 are each amended to
2 read as follows:

3 The review under this chapter of greenhouse gas emissions from a
4 new or expanded facility subject to the greenhouse gas emission
5 reduction requirements of chapter 70A.65 RCW must occur consistent
6 with RCW 70A.65.080(~~((9))~~) (8).

7 **Sec. 10.** RCW 70A.65.400 and 2025 c 282 s 1 are each amended to
8 read as follows:

9 (1) By October 1, 2025, the department must post and periodically
10 update on its website a directory tool, by county and, if applicable,
11 city, of the name and address of each retail fuel seller of exempt
12 agricultural fuel under RCW 70A.65.080(~~((7))~~) (6)(e) that has
13 notified the department under subsection (3) of this section
14 including, but not limited to, retail fuel sellers that rely on a
15 cardholder or membership program and exempt fuel purchase
16 aggregators. The department may only identify in the directory
17 entities that make available exempt agricultural fuel under RCW
18 70A.65.080(~~((7))~~) (6)(e) for purchase at a price that is different
19 than the price of fuel that is not exempt under RCW 70A.65.080(~~((7))~~)
20 (6)(e). The directory tool must allow a user to use a simple search
21 function to find a retail seller of exempt agricultural fuel in a
22 specific jurisdiction within the state.

23 (2)(a) By October 1, 2025, the department must publish on its
24 website a guide for potentially eligible users of exempt agricultural
25 fuel under RCW 70A.65.080(~~((7))~~) (6)(e) that describes:

26 (i) In consultation with the department of licensing, the
27 mechanisms by which the exempt fuel user may obtain a remittance; or

28 (ii) The mechanisms by which the exempt fuel user may purchase
29 exempt fuel including, but not limited to, exempt fuel purchase
30 aggregators and cardholder or membership-based payment options
31 offered by private parties. The information that the department is
32 required to publish under this subsection is limited to information
33 that is voluntarily disclosed by retail fuel sellers or exempt fuel
34 purchase aggregators.

35 (b) This guide must include a description of the information
36 submission and procedural requirements associated with obtaining a
37 remittance payment under the remittance program implemented by the
38 department of licensing.

1 (3) A retail fuel seller including, but not limited to, an exempt
2 fuel purchase aggregator or cardholder or membership-based payment
3 option, may voluntarily notify the department of locations where
4 exempt agricultural fuel under RCW 70A.65.080(~~(+7)~~) (6)(e) is
5 available for purchase, including contact information for the
6 location, types of exempt fuel for sale, and the address and latitude
7 and longitude of each location.

8 (4) Nothing in this section establishes, limits, or otherwise
9 alters the obligation of a person to be a covered or opt-in entity
10 under RCW 70A.65.080, an opt-in entity under RCW 70A.65.090(3), or to
11 report emissions under RCW 70A.15.2200. Nothing in this section makes
12 a fuel seller that is not a covered entity under this chapter subject
13 to the penalties provided in RCW 70A.65.200(5).

14 ~~(5) ((It is the intent of the legislature to pair the activities~~
15 ~~described in this section with a continuation, through the 2025-2027~~
16 ~~biennium of the payment program for exempt fuel specified in RCW~~
17 ~~70A.65.080(7)(e) implemented by the department of licensing as~~
18 ~~required by the 2024 supplemental omnibus operating appropriations~~
19 ~~act, ESSB [Engrossed Substitute Senate Bill No.] 5950. It is the~~
20 ~~intent of the legislature that the department of licensing's~~
21 ~~remittance program include payments to farm fuel users who purchased~~
22 ~~kerosene or natural gas for agricultural purposes.~~

23 ~~(+6)~~) For purposes of this section "exempt fuel purchase
24 aggregator" means a for-profit or nonprofit entity that makes exempt
25 agricultural fuel available to customers for purchase at a
26 differential rate than the rate charged for nonexempt fuels, and that
27 has established procedures for verifying that the fuel purchased
28 qualifies as exempt, as well as procedures for tracking and reporting
29 the volumes of exempt fuel sales to covered or opt-in entities from
30 which the aggregator purchases fuel.

31 **Sec. 11.** RCW 70A.65.160 and 2025 c 320 s 7 are each amended to
32 read as follows:

33 (1)(a) The price ceiling for calendar years 2026 and 2027 shall
34 be \$80 to provide cost protection for covered entities obligated to
35 comply with this chapter. The department must adjust the allowance
36 price containment reserve tier 2 price to reflect the 2026 and 2027
37 price ceiling, and the price ceiling must increase annually in
38 proportion to the reserve auction floor price established in RCW
39 70A.65.150(1).

1 (b) If the department enters into a linkage agreement, and the
2 linked jurisdictions do not amend their rules to synchronize with
3 Washington's price ceiling established in (a) of this subsection, the
4 department may amend its rules to synchronize Washington's price
5 ceiling with those of the linked jurisdictions. The price ceiling may
6 not be set at a level below the ceiling specified in (a) of this
7 subsection unless the director of the department determines that an
8 amendment to the price ceiling is necessary in order to enter into a
9 linkage agreement.

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

21 (3) The price ceiling unit emission reduction investment account
22 is created in the state treasury. All receipts from the sale of price
23 ceiling units and penalties imposed under section 6 of this act must
24 be deposited in the account. Moneys in the account may only be spent
25 after appropriation. Moneys in the account must be expended to
26 achieve emissions reductions on at least a metric ton for metric ton
27 basis that are real, permanent, quantifiable, verifiable, enforceable
28 by the state, and in addition to any greenhouse gas emission
29 reduction otherwise required by law or regulation and any other
30 greenhouse gas emission reduction that otherwise would occur.

31 NEW SECTION. **Sec. 12.** Sections 3 through 6 of this act
32 constitute a new chapter in Title 70A RCW.

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