
SECOND SUBSTITUTE HOUSE BILL 2416

State of Washington

69th Legislature

2026 Regular Session

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

READ FIRST TIME 02/09/26.

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 intends to treat all
8 municipal solid waste management systems fairly and equivalently
9 throughout the state under the Washington cap and invest program.
10 This act achieves more equal treatment of all communities with
11 municipal solid waste management systems under the Washington cap and
12 invest program by creating greenhouse gas emissions reduction and
13 other requirements that recognize the unique status of the state's
14 only waste to energy facility.

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

17 (1) A person is a covered entity as of the beginning of the first
18 compliance period and all subsequent compliance periods if the person
19 reported emissions under RCW 70A.15.2200 for any calendar year from
20 2015 through 2019, or if additional data provided as required by this

1 chapter indicates that emissions for any calendar year from 2015
2 through 2019 equaled or exceeded any of the following thresholds, or
3 if the person is a first jurisdictional deliverer and imports
4 electricity into the state during the compliance period:

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

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

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

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

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

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

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

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

39 (e)(i) Where the person supplies natural gas in amounts that
40 would result in exceeding 25,000 metric tons of carbon dioxide

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

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

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

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

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

37 ~~((4))~~ (3) When a covered entity reports, during a compliance
38 period, emissions from a facility under RCW 70A.15.2200 that are
39 below the thresholds specified in subsection (1) ~~((or (2)))~~ of this
40 section, the covered entity continues to have a compliance obligation

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

14 ~~((+5))~~ (4) For types of emissions sources described in
15 subsection (1) of this section that begin or modify operation after
16 January 1, 2023, ~~((and types of emission sources described in
17 subsection (2) of this section that begin or modify operation after
18 2027,))~~ coverage under the program starts in the calendar year in
19 which emissions from the source exceed the applicable thresholds in
20 subsection (1) ~~((or (2)))~~ of this section, or upon formal notice from
21 the department that the source is expected to exceed the applicable
22 emissions threshold, whichever happens first. Sources meeting these
23 conditions are required to transfer their first allowances on the
24 first transfer deadline of the year following the year in which their
25 emissions were equal to or exceeded the emissions threshold.

26 ~~((+6))~~ (5) For emissions sources described in subsection (1) of
27 this section that are in operation or otherwise active between 2015
28 and 2019 but were not required to report emissions for those years
29 under RCW 70A.15.2200 for the reporting periods between 2015 and
30 2019, coverage under the program starts in the calendar year
31 following the year in which emissions from the source exceed the
32 applicable thresholds in subsection (1) of this section as reported
33 pursuant to RCW 70A.15.2200 or provided as required by this chapter,
34 or upon formal notice from the department that the source is expected
35 to exceed the applicable emissions threshold for the first year that
36 source is required to report emissions, whichever happens first.
37 Sources meeting these criteria are required to transfer their first
38 allowances on the first transfer deadline of the year following the
39 year in which their emissions, as reported under RCW 70A.15.2200 or

1 provided as required by this chapter, were equal to or exceeded the
2 emissions threshold.

3 ~~((7))~~ (6) The following emissions are exempt from coverage in
4 the program, regardless of the emissions reported under RCW
5 70A.15.2200 or provided as required by this chapter:

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

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

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

12 (d) Carbon dioxide emissions from the combustion of biomass or
13 biofuels;

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

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

29 (iii) For the purposes of this subsection:

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

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

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

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

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

1 (h) Emissions from a waste to energy facility that was
2 constructed prior to 1992, utilized by a county and city solid waste
3 management program that is subject to, and in compliance with chapter
4 70A.--- RCW (the new chapter created in section 12 of this act).

5 ~~((+8))~~ (7) The department shall not require multiple covered
6 entities to have a compliance obligation for the same emissions. The
7 department may by rule authorize refineries, fuel suppliers,
8 facilities using natural gas, and natural gas utilities to provide by
9 agreement for the assumption of the compliance obligation for fuel or
10 natural gas supplied and combusted in the state. The department must
11 be notified of such an agreement at least 12 months prior to the
12 compliance obligation period for which the agreement is applicable.

13 ~~((+9))~~ (8)(a) The legislature intends to promote a growing and
14 sustainable economy and to avoid leakage of emissions from
15 manufacturing to other locations. The legislature further intends to
16 see innovative new businesses locate and grow in Washington that
17 contribute to Washington's prosperity and environmental objectives.

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

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

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

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

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

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

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

15 (3) "Carbon dioxide equivalents" has the same meaning as in RCW
16 70A.65.010.

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

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

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

23 (7) "Waste to energy facility" means a waste to energy facility
24 utilized by a county and city solid waste management program that was
25 constructed prior to 1992.

26 NEW SECTION. **Sec. 4.** (1) The owner or operator of a waste to
27 energy facility must achieve the following greenhouse gas emissions
28 reductions associated with the operations of the waste to energy
29 facility:

30 (a) By December 31, 2030, and each year thereafter until 2040, a
31 15 percent reduction in greenhouse gas emissions, exclusive of any
32 emissions from the combustion of biofuels or biomass including, but
33 not limited to, wood products, wood by-products, wood residuals,
34 food, and yard waste, relative to baseline levels;

35 (b) By December 31, 2040, and each year thereafter until 2050, a
36 70 percent reduction in greenhouse gas emissions relative to baseline
37 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) The owner and operator of a waste to energy facility shall
4 not utilize waste diverted to a landfill for compliance purposes that
5 can otherwise be recovered, recycled, or otherwise processed at the
6 facility.

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

10 (a) A proposed waste reduction and material recovery plan that is
11 consistent with the state's waste management hierarchy established in
12 RCW 70A.205.005, takes into consideration the organic material
13 management policies in RCW 70A.205.540 and 70A.205.545 and the
14 expected impacts of chapter 70A.208 RCW and also outlines how the
15 facility will achieve the 2040 and 2050 greenhouse gas emissions
16 reduction standards established in section 4(1) of this act;

17 (b)(i) An impact analysis that takes into account both the
18 qualitative and quantitative benefits and costs, including social,
19 environmental, health, and economic benefits and costs to
20 overburdened communities and vulnerable populations, of at least the
21 following alternatives:

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

24 (B) Refurbishing the waste to energy facility;

25 (C) Replacing the waste to energy facility; and

26 (D) Closing the waste to energy facility;

27 (ii) The owner or operator of the waste to energy facility must
28 hire an independent third party to carry out the impact analysis.

29 (2) In the proposed waste reduction and material recovery plan,
30 emissions reductions may be proposed to be achieved by any
31 combination of carbon capture, sequestration or other captured carbon
32 use adopted by rule or policy by the department, waste reduction
33 activities, recycling and reuse activities, energy conservation,
34 industrial symbiosis, or other greenhouse gas emissions reduction
35 strategies identified by the owners or operators of the waste to
36 energy facility.

37 (3) In developing the report, the owner or operator of the waste
38 to energy facility must consult with local municipally created
39 stakeholder and community advisory bodies formed with the purpose of

1 advising on climate or sustainability decisions. The proposed
2 independent third party's impact analysis and the draft report and
3 plan must be presented in a public forum with an opportunity for
4 public comment prior to a final decision to approve the draft report
5 and plan.

6 (4) Within 90 days of receipt, the department, in consultation
7 with the department of commerce, must complete its review of the
8 report. The owner or operator of the waste to energy facility must
9 address the department's comments and finalize the report within 90
10 days of receipt of the department's comments. The owner or operator
11 of a waste to energy facility must take reasonable
12 steps towards implementation of the plan and operate the facility and
13 take other actions, as appropriate, consistent with the goals of the
14 plan.

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

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

24 (3)(a) For a failure to meet the 2030 gas emissions reduction
25 standards specified in section 4 of this act in any year through
26 2039, a person must pay a penalty equal to the average price of one
27 allowance during the preceding calendar year of implementation of
28 chapter 70A.65 RCW for each metric ton of carbon dioxide equivalent
29 above the greenhouse gas emissions reduction target.

30 (b) For a failure to meet the 2040 gas emissions reduction
31 standards specified in section 4 of this act in any year through
32 2049, or for a failure to meet the 2050 gas emissions reduction
33 standards specified in section 4 of this act in any year beginning
34 with calendar year 2050, a person must pay a penalty equal to the
35 average price of two allowances during the preceding calendar year of
36 implementation of chapter 70A.65 RCW for each metric ton of carbon
37 dioxide equivalent above the greenhouse gas emissions reduction
38 target.

1 (c) For purposes of this subsection, the average price of one
2 allowance during a calendar year of implementation of chapter 70A.65
3 RCW must be measured using the mean price of allowances sold at
4 auction during the calendar year, not including the price of
5 allowances sold at any reserve auctions held during that calendar
6 year, weighted according to the number of allowances sold at each
7 such auction.

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

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

13 (6) All penalties collected under this chapter shall be deposited
14 in the price ceiling unit emissions reduction investment account
15 created in RCW 70A.65.160.

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

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

26 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
27 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.205.740,
28 70A.205.280, 70A.205.545, 70A.355.070, 70A.430.070, 70A.500.260,
29 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060,
30 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130,
31 70A.245.140, 70A.65.200, 70A.455.090, 70A.535.180, 70A.550.030,
32 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,
33 70A.565.030, 76.04.205, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
34 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

35 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
36 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
37 70A.15.6010, 70A.205.740, 70A.205.280, 70A.214.140, 70A.300.120,
38 70A.350.070, 70A.245.020, 70A.65.200, 70A.535.180, 70A.505.100,
39 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,

1 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,
2 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

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

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

17 (e) Decisions of local health departments regarding the issuance
18 and enforcement of permits to use or dispose of biosolids under RCW
19 70A.226.090.

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

22 (g) Decisions of local conservation districts related to the
23 denial of approval or denial of certification of a dairy nutrient
24 management plan; conditions contained in a plan; application of any
25 dairy nutrient management practices, standards, methods, and
26 technologies to a particular dairy farm; and failure to adhere to the
27 plan review and approval timelines in RCW 90.64.026 as provided in
28 RCW 90.64.028.

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

32 (i) Decisions of the department of natural resources, the
33 department of fish and wildlife, and the department that are
34 reviewable under chapter 76.09 RCW, and the department of natural
35 resources' appeals of county, city, or town objections under RCW
36 76.09.050(7).

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

39 (k) Decisions of the department of fish and wildlife to issue,
40 deny, condition, or modify a hydraulic project approval permit under

1 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
2 comply, to issue a civil penalty, or to issue a notice of intent to
3 disapprove applications.

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

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

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

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

15 (p) Decisions by the department of ecology under RCW
16 70A.208.150(5) regarding a proposal by a producer responsibility
17 organization to count materials sent to an alternative recycling
18 facility towards recycling performance targets.

19 (q) Decisions of the department of natural resources under RCW
20 76.04.205.

21 (2) The following hearings shall not be conducted by the hearings
22 board:

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

27 (b) Hearings conducted by the department pursuant to RCW
28 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
29 70A.15.3110, and 90.44.180.

30 (c) Appeals of decisions by the department under RCW 90.03.110
31 and 90.44.220.

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

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

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

1 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
2 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
3 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
4 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
5 70A.555.110, 70A.560.020, 70A.208.230, section 6 of this act,
6 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
7 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be
8 imposed by a notice in writing, either by certified mail with return
9 receipt requested or by personal service, to the person incurring the
10 penalty from the department or the local air authority, describing
11 the violation with reasonable particularity. For penalties issued by
12 local air authorities, within 30 days after the notice is received,
13 the person incurring the penalty may apply in writing to the
14 authority for the remission or mitigation of the penalty. Upon
15 receipt of the application, the authority may remit or mitigate the
16 penalty upon whatever terms the authority in its discretion deems
17 proper. The authority may ascertain the facts regarding all such
18 applications in such reasonable manner and under such rules as it may
19 deem proper and shall remit or mitigate the penalty only upon a
20 demonstration of extraordinary circumstances such as the presence of
21 information or factors not considered in setting the original
22 penalty.

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

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

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

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

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

37 (4) If the amount of any penalty is not paid to the department
38 within 30 days after it becomes due and payable, the attorney
39 general, upon request of the department, shall bring an action in the
40 name of the state of Washington in the superior court of Thurston

1 county, or of any county in which the violator does business, to
2 recover the penalty. If the amount of the penalty is not paid to the
3 authority within 30 days after it becomes due and payable, the
4 authority may bring an action to recover the penalty in the superior
5 court of the county of the authority's main office or of any county
6 in which the violator does business. In these actions, the procedures
7 and rules of evidence shall be the same as in an ordinary civil
8 action.

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

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

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

15 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
16 70A.430.070, 70A.555.110, 70A.560.020, and 70A.565.030 must be
17 credited to the model toxics control operating account created in RCW
18 70A.305.180;

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

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

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

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

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

32 (i) Penalties imposed pursuant to RCW 70A.355.070 must be
33 credited to the underground storage tank account created in RCW
34 70A.355.090.

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

37 The review under this chapter of greenhouse gas emissions from a
38 new or expanded facility subject to the greenhouse gas emissions

1 reduction requirements of chapter 70A.65 RCW must occur consistent
2 with RCW 70A.65.080(~~((+9))~~) (8).

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

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

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

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

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

31 (b) This guide must include a description of the information
32 submission and procedural requirements associated with obtaining a
33 remittance payment under the remittance program implemented by the
34 department of licensing.

35 (3) A retail fuel seller including, but not limited to, an exempt
36 fuel purchase aggregator or cardholder or membership-based payment
37 option, may voluntarily notify the department of locations where
38 exempt agricultural fuel under RCW 70A.65.080(~~((+7))~~) (6)(e) is
39 available for purchase, including contact information for the

1 location, types of exempt fuel for sale, and the address and latitude
2 and longitude of each location.

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

9 ~~(5) ((It is the intent of the legislature to pair the activities
10 described in this section with a continuation, through the 2025-2027
11 biennium of the payment program for exempt fuel specified in RCW
12 70A.65.080(7)(e) implemented by the department of licensing as
13 required by the 2024 supplemental omnibus operating appropriations
14 act, ESSB [Engrossed Substitute Senate Bill No.] 5950. It is the
15 intent of the legislature that the department of licensing's
16 remittance program include payments to farm fuel users who purchased
17 kerosene or natural gas for agricultural purposes.~~

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

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

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

35 (b) If the department enters into a linkage agreement, and the
36 linked jurisdictions do not amend their rules to synchronize with
37 Washington's price ceiling established in (a) of this subsection, the
38 department may amend its rules to synchronize Washington's price
39 ceiling with those of the linked jurisdictions. The price ceiling may

1 not be set at a level below the ceiling specified in (a) of this
2 subsection unless the director of the department determines that an
3 amendment to the price ceiling is necessary in order to enter into a
4 linkage agreement.

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

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

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

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