
ENGROSSED SENATE BILL 6246

State of Washington

69th Legislature

2026 Regular Session

By Senators Slatter, Shewmake, and Saldaña

Read first time 01/20/26. Referred to Committee on Environment,
Energy & Technology.

1 AN ACT Relating to emissions from emissions-intensive, trade-
2 exposed facilities under the climate commitment act; and amending RCW
3 70A.65.110.

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

5 **Sec. 1.** RCW 70A.65.110 and 2024 c 352 s 6 are each amended to
6 read as follows:

7 (1) Facilities owned or operated by a covered entity must receive
8 an allocation of allowances for the covered emissions at those
9 facilities under this subsection at no cost if the operations of the
10 facility are classified as emissions-intensive and trade-exposed, as
11 determined by being engaged in one or more of the processes described
12 by the following industry descriptions and codes in the North
13 American industry classification system as those classifications
14 existed on January 1, 2026:

15 (a) Metals manufacturing, including iron and steel making,
16 ferroalloy and primary metals manufacturing, secondary aluminum
17 smelting and alloying, aluminum sheet, plate, and foil manufacturing,
18 and smelting, refining, and alloying of other nonferrous metals,
19 North American industry classification system codes beginning with
20 331;

1 (b) Paper manufacturing, including pulp mills, paper mills, and
2 paperboard milling, North American industry classification system
3 codes beginning with 322;

4 (c) Aerospace product and parts manufacturing, North American
5 industry classification system codes beginning with 3364;

6 (d) Wood products manufacturing, North American industry
7 classification system codes beginning with 321;

8 (e) Nonmetallic mineral manufacturing, including glass container
9 manufacturing, North American industry classification system codes
10 beginning with 327;

11 (f) Chemical manufacturing, North American industry
12 classification system codes beginning with 325;

13 (g) Computer and electronic product manufacturing, including
14 semiconductor and related device manufacturing, North American
15 industry classification system codes beginning with 334;

16 (h) Food manufacturing, North American industry classification
17 system codes beginning with 311;

18 (i) Cement manufacturing, North American industry classification
19 system code 327310;

20 (j) Petroleum refining, North American industry classification
21 system code 324110;

22 (k) Asphalt paving mixtures and block manufacturing from refined
23 petroleum, North American industry classification system code 324121;

24 (l) Asphalt shingle and coating manufacturing from refined
25 petroleum, North American industry classification system code 324122;
26 and

27 (m) All other petroleum and coal products manufacturing from
28 refined petroleum, North American industry classification system code
29 324199.

30 (2) By July 1, 2022, the department must adopt by rule objective
31 criteria for both emissions' intensity and trade exposure for the
32 purpose of identifying emissions-intensive, trade-exposed
33 (~~manufacturing businesses~~) facilities during the second compliance
34 period of the program and subsequent compliance periods. A
35 manufacturing facility covered by subsection (1)(a) through (m) of
36 this section is considered an emissions-intensive, trade-exposed
37 facility and is eligible for allocation of no cost allowances as
38 described in this section. In addition, any covered party that (~~is a~~
39 ~~manufacturing business~~) owns or operates a manufacturing facility
40 that can demonstrate to the department that it meets the objective

1 criteria adopted by rule is also eligible for treatment as emissions-
2 intensive, trade-exposed and is eligible for allocation of no cost
3 allowances as described in this section. In developing the objective
4 criteria under this subsection, the department must consider the
5 locations of facilities potentially identified as emissions-
6 intensive, trade-exposed (~~manufacturing—businesses~~) facilities
7 relative to overburdened communities.

8 (3) (a) For the years 2023 through 2026, the annual allocation of
9 no cost allowances for direct distribution to a facility identified
10 as emissions-intensive and trade-exposed must be equal to the
11 facility's baseline carbon intensity established using data from 2015
12 through 2019, or other data as allowed under this section, multiplied
13 by the facility's actual production for each calendar year during the
14 compliance period. For facilities using the mass-based approach, the
15 allocation of no cost allowances shall be equal to the facility's
16 mass-based baseline using data from 2015 through 2019, or other data
17 as allowed under this section.

18 (b) For the four years beginning January 2027 and in each
19 subsequent four-year period, the annual allocation of no cost
20 allowances established in (a) of this subsection shall be adjusted
21 according to the benchmark reduction schedules established in (b) (ii)
22 and (iii) and (e) of this subsection multiplied by the facility's
23 actual production during the period. The department shall adjust the
24 no cost allocation of allowances and credits to an emissions-
25 intensive and trade-exposed facility to avoid duplication with any no
26 cost allowances transferred pursuant to RCW 70A.65.120 and
27 70A.65.130, if applicable.

28 (i) For the purpose of this section, "carbon intensity" means the
29 amount of carbon dioxide equivalent emissions from a facility in
30 metric tons divided by the facility specific measure of production
31 including, but not limited to, units of product manufactured or sold,
32 over the same time interval.

33 (ii) If an emissions-intensive and trade-exposed facility is not
34 able to feasibly determine a carbon intensity benchmark based on its
35 unique circumstances, the entity may elect to use a mass-based
36 baseline that does not vary based on changes in production volumes.
37 The mass-based baseline must be based upon data from 2015 through
38 2019, unless the emissions-intensive, trade-exposed facility can
39 demonstrate that there have been abnormal periods of operation that
40 materially impacted the facility and the baseline period should be

1 expanded to include years prior to 2015. For the years 2023 through
2 2026, these facilities must be awarded no cost allowances equal to
3 100 percent of the facility's mass-based baseline. For each year
4 during the years 2027 through 2030, these facilities must be awarded
5 no cost allowances equal to 97 percent of the facility's mass-based
6 baseline. For each year during the years 2031 through 2034, these
7 facilities must be awarded no cost allowances equal to 94 percent of
8 the facility's mass-based baseline. Except as provided in (b)(iii) of
9 this subsection, if a facility elects to use a mass-based baseline,
10 it may not later convert to a carbon intensity benchmark during the
11 years 2023 through 2034.

12 (iii) A facility with a North American industry classification
13 system code beginning with 3364 that is utilizing a mass-based
14 baseline in (b)(ii) of this subsection must receive an additional no
15 cost allowance allocation under this section in order to accommodate
16 an increase in production that increases its emissions above the
17 baseline on a basis equivalent in principle to those awarded to
18 entities utilizing a carbon intensity benchmark pursuant to this
19 subsection (3)(b). The department shall establish methods to award,
20 for any annual period, additional no cost allowance allocations under
21 this section and, if appropriate based on projected production, to
22 achieve a similar ongoing result through the adjustment of the
23 facility's mass-based baseline. An eligible facility under this
24 subsection that has elected to use a mass-based baseline may not
25 convert to a carbon intensity benchmark until the next compliance
26 period.

27 (c)(i) By September 15, 2022, each emissions-intensive, trade-
28 exposed facility shall submit its carbon intensity baseline for the
29 first compliance period to the department. The carbon intensity
30 baseline for the first compliance period must use data from
31 2015-2019, unless the emissions-intensive, trade-exposed facility can
32 demonstrate that there have been abnormal periods of operation that
33 materially impacted the facility and the baseline period should be
34 expanded to include years prior to 2015.

35 (ii) By November 15, 2022, the department shall review and
36 approve each emissions-intensive, trade-exposed facility's baseline
37 carbon intensity for the years 2023 through 2026.

38 (d) During the years 2023 through 2026, each emissions-intensive,
39 trade-exposed facility must record its facility-specific carbon
40 intensity baseline based on its actual production.

1 (e)(i) For the years 2027 through 2030, the second period
2 benchmark for each emissions-intensive, trade-exposed facility is
3 three percent below the first period baseline specified in (a), (b),
4 and (c) of this subsection.

5 (ii) For the years 2031 through 2034, the third period benchmark
6 for each emissions-intensive, trade-exposed facility is three percent
7 lower than the years 2027 through 2030.

8 (f) Prior to the beginning of 2027, 2031, or subsequent four-year
9 periods, the department may make an upward adjustment in the next
10 four-year period's benchmark for an emissions-intensive, trade-
11 exposed facility based on the facility's demonstration to the
12 department that additional reductions in carbon intensity or mass
13 emissions are not technically or economically feasible. The
14 department may base the upward adjustment applicable to an emissions-
15 intensive, trade-exposed facility in the next four-year period on the
16 facility's best available technology analysis, and may consider
17 information submitted to the department under subsection (9) of this
18 section. The department shall by rule provide for an emissions-
19 intensive, trade-exposed ((facilities)) facility to apply to the
20 department for an upward adjustment to the allocation for direct
21 distribution of no cost allowances based on its facility-specific
22 carbon intensity benchmark or mass emissions baseline. The department
23 shall make adjustments based on:

24 (i) A significant change in the emissions use or emissions
25 attributable to the manufacture of an individual good or goods in
26 this state by an emissions-intensive, trade-exposed facility based on
27 a finding by the department that an adjustment is necessary to
28 accommodate for changes in the manufacturing process that have a
29 material impact on emissions;

30 (ii) Significant changes to an emissions-intensive, trade-exposed
31 facility's external competitive environment that result in a
32 significant increase in leakage risk; or

33 (iii) Abnormal operating periods when an emissions-intensive,
34 trade-exposed facility's carbon intensity has been materially
35 affected so that these abnormal operating periods are either excluded
36 or otherwise considered in the establishment of the carbon intensity
37 benchmarks.

38 (4)(a) By December 1, 2026, the department shall provide ((a
39 report to the appropriate committees of the senate and house of
40 representatives that describes alternative methods for determining

1 ~~the amount and a schedule of allowances to be provided to facilities~~
2 ~~owned or operated by each covered entity designated as an emissions-~~
3 ~~intensive, trade-exposed facility from)) recommendations for the
4 consideration of the legislature regarding the schedule of allowances
5 to be provided to emissions-intensive, trade-exposed facilities from
6 January 1, 2035, through January 1, 2050. ((The report must include a
7 review of global best practices in ensuring against emissions leakage
8 and economic harm to businesses in carbon pricing programs and
9 describe alternative methods of emissions performance benchmarking
10 and mass-based allocation of no cost allowances. At a minimum, the
11 department must evaluate benchmarks based on both carbon intensity
12 and mass, as well as the use of best available technology as a method
13 for compliance. In developing the report, the department shall form
14 an advisory group that includes representatives of the manufacturers
15 listed in subsection (1) of this section.~~

16 ~~(b))~~ Recommendations in the report due December 1, 2026, must
17 identify:

18 (i) A proposed method for making annual reductions to emissions-
19 intensive, trade-exposed facility allowance allocation that would
20 mitigate the risk of leakage and ensure total no-cost allowances
21 allocated to emissions-intensive, trade-exposed facilities align with
22 the annual allowance budgets established by the department under RCW
23 70A.65.070 and are consistent with the emissions limits established
24 in RCW 70A.45.020, including the percentage reductions in emissions-
25 intensive, trade-exposed facility allowance allocation that would be
26 applied each year from January 1, 2035, through January 1, 2050;

27 (ii) Proposed criteria and methods to make adjustments to
28 allowances allocated at no cost to emissions-intensive, trade-exposed
29 facilities to address significant changes in leakage risk and to
30 achieve the purposes of the greenhouse gas emissions cap and invest
31 program established under this chapter including, but not limited to,
32 the achievement of emissions limits established in RCW 70A.45.020;

33 (iii) The proposed design of an allowance allocation policy or
34 method that would require a portion of the allowances provided at no
35 cost to emissions-intensive, trade-exposed facilities to be consigned
36 to auction and for the proceeds to be invested in projects or
37 programs for reducing greenhouse gas emissions at the emissions-
38 intensive, trade-exposed facilities from which they were consigned,
39 including the percentage of allowances to be consigned to auction and

1 proposed criteria and methods for the distribution and use of
2 consigned funds at each emissions-intensive, trade-exposed facility;

3 (iv) Additional state policies or strategies that may be
4 necessary to support the reduction of emissions and decarbonization
5 of emissions-intensive, trade-exposed facilities in support of the
6 achievement of emissions limits established in RCW 70A.45.020,
7 including how to address technological and economic feasibility and
8 infeasibility, and other barriers to implementation;

9 (v) Provisions of this chapter or other state laws that need to
10 be amended to implement the recommendations developed by the
11 department under this subsection (4) (a);

12 (b) In developing these recommendations, the department must
13 consider input received from representatives of the facilities listed
14 in subsection (1) of this section, covered entities, environmental
15 advocates, overburdened communities, tribes, subject matter experts,
16 and the public, and should consider:

17 (i) Anticipated demand for allowances from emissions-intensive,
18 trade-exposed facilities and other covered entities through 2050;

19 (ii) Potential for deployment of technologies and strategies for
20 reducing emissions at emissions-intensive, trade-exposed facilities
21 through 2050 and other facility-specific or industry-specific
22 factors, including consideration of factors that may affect
23 deployment of these technologies and strategies, such as technical
24 and economic feasibility and infeasibility;

25 (iii) Potential impacts of implementing the recommendations on
26 overburdened communities and vulnerable populations; and

27 (iv) Interactions with other state policies and programs designed
28 to reduce greenhouse gas emissions and achieve statewide emissions
29 limits established in RCW 70A.45.020;

30 (c) In addition to these recommendations, the department may
31 include information on additional state policies or strategies that
32 incentivize emissions-intensive, trade-exposed facilities to use
33 lower-carbon raw materials, recycled materials, or material
34 substitution, to reduce the emissions attributable to the manufacture
35 of an individual good or goods in the state.

36 (d) If the legislature does not adopt a ((compliance obligation
37 ~~for~~)) schedule of allowances to be provided to facilities owned or
38 operated by each covered entity designated as emissions-intensive,
39 trade-exposed facilities ((by December 1, 2027)) from January 1,
40 2035, through January 1, 2050, those facilities must continue to

1 receive allowances as provided in the years 2031 through 2034 until a
2 schedule is adopted by the legislature.

3 (5) If the actual emissions of an emissions-intensive, trade-
4 exposed facility exceed the facility's no cost allowances assigned
5 for that compliance period, it must acquire additional compliance
6 instruments such that the total compliance instruments transferred to
7 its compliance account consistent with this chapter equals emissions
8 during the compliance period. An emissions-intensive, trade-exposed
9 facility must be allowed to bank unused allowances, including for
10 future sale and investment in best available technology when
11 economically feasible. The department shall limit the use of offset
12 credits for compliance by an emissions-intensive, trade-exposed
13 facility, such that the quantity of no cost allowances plus the
14 provision of offset credits does not exceed 100 percent of the
15 facility's total compliance obligation over a compliance period.

16 (6) The department must withhold or withdraw the relevant share
17 of allowances allocated to a covered entity under this section in the
18 event that the covered entity ceases production in the state and
19 becomes a closed facility. In the event an entity curtails all
20 production and becomes a curtailed facility, the allowances are
21 retained but cannot be traded, sold, or transferred and are still
22 subject to the emissions reduction requirements specified in this
23 section. An owner or operator of a curtailed facility may transfer
24 the allowances to a new operator of the facility that will be
25 operated under the same North American industry classification system
26 codes. If the curtailed facility becomes a closed facility, then all
27 unused allowances will be transferred to the emissions containment
28 reserve. A curtailed facility is not eligible to receive free
29 allowances during a period of curtailment. Any allowances withheld or
30 withdrawn under this subsection must be transferred to the emissions
31 containment reserve.

32 (7) An owner or operator of more than one facility receiving no
33 cost allowances under this section may transfer allowances among the
34 eligible facilities.

35 (8) Rules adopted by the department under this section must
36 include protocols for allocating allowances at no cost to an eligible
37 facility built after July 25, 2021. The protocols must include
38 consideration of the products and criteria pollutants being produced
39 by the facility, as well as the local environmental and health
40 impacts associated with the facility. For a facility that is built on

1 tribal lands or is determined by the department to impact tribal
2 lands and resources, the protocols must be developed in consultation
3 with the affected tribal nations.

4 (9) (a) The purpose of the reporting requirements of this
5 subsection (9) is to establish a framework under which measures for
6 reducing greenhouse gas emissions by emissions-intensive, trade-
7 exposed facilities in support of statewide emissions limits,
8 including implementation barriers, can be identified, evaluated, and
9 progressed. It is not, however, the intent of the legislature that
10 the reporting framework established in this section require
11 implementation of any specific emissions reduction measures
12 identified, but to collect information that will inform the
13 development and implementation of state policies and programs that
14 directly support or enable emissions reduction activities by
15 emissions-intensive, trade-exposed facilities. The legislature
16 intends, using the provisions of this subsection (9) to establish a
17 framework that will:

18 (i) Achieve emissions reductions by emissions-intensive, trade-
19 exposed facilities in a manner compatible with the overall allowance
20 budgets established under this chapter and the statewide emissions
21 limits of chapter 70A.45 RCW; and

22 (ii) Inform the development and implementation of policies and
23 programs, including financial incentives, to support and enable
24 emissions reductions by owners and operators of emissions-intensive,
25 trade-exposed facilities, including when the department and other
26 state agencies consider grant applications or award other funds
27 deriving from revenues under this chapter.

28 (b) By December 1, 2028, and every four years thereafter, the
29 owner or operator of an emissions-intensive, trade-exposed facility
30 must provide the following to the department in a form and manner
31 prescribed by the department through guidance or rule:

32 (i) Information about the greenhouse gas emissions of each
33 emissions-intensive facility and, to the extent determined to be
34 feasible for the facility by the department, each unit within each
35 facility; and

36 (ii) An assessment of technically and economically feasible
37 measures to reduce greenhouse gas emissions at the facility. The
38 assessment must:

39 (A) Include information identifying and estimating applicable
40 potential emissions reduction projects in each facility using current

1 available technologies, or those that are likely to be available in
2 the next 10 years, along with their implementation costs. To the
3 extent feasible, the information on applicable potential emissions
4 reduction projects must include the:

5 (I) Description of the project;

6 (II) The project's ability to meet process specifications,
7 permitting requirements, and low, medium, and high heat temperature
8 ranges;

9 (III) Estimated emissions reductions;

10 (IV) Availability or maturation of technology;

11 (V) Estimated capital expenditures;

12 (VI) Estimated annual operating expenditures;

13 (VII) Cost-effectiveness;

14 (VIII) Estimated implementation timeline; and

15 (IX) Project constraints including, but not limited to,
16 electricity supply availability and permitting requirements;

17 (B) Evaluate the potential for greenhouse gas emissions
18 reductions including, but not limited to, by methods such as improved
19 energy efficiency and energy conversion; and

20 (C) Be reviewed by a licensed professional engineer who certifies
21 that:

22 (I) The information submitted in this subsection (9)(b)(ii) is
23 credible; and

24 (II) The owner or operator of an emissions-intensive, trade-
25 exposed facility has undertaken a process to identify projects for
26 greenhouse gas emissions reductions that are technically viable or
27 that are likely to be technically viable in the next 10 years.

28 (c) The owner or operator of an emissions-intensive, trade-
29 exposed facility may include in its assessment submitted under
30 (b)(ii) of this subsection (9), alternative projects that:

31 (i) Reduce emissions upstream or downstream of the facility;

32 (ii) Relate to raw material input; or

33 (iii) Relate to cobenefits with other emissions reductions,
34 including community or environmental benefits.

35 (d) For the purpose of calculating emissions or submitting an
36 assessment as provided in (b) of this subsection (9), the department
37 must not require any new permanent submetering for greenhouse gas
38 emissions sources.

39 (e) The department must assess a penalty in accordance with RCW
40 70A.65.200(5) if an owner or operator of an emissions-intensive,

1 trade-exposed facility fails to comply with the requirements of this
2 subsection (9).

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