CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1975

Chapter 320, Laws of 2025

69th Legislature
2025 Regular Session

CLIMATE COMMITMENT ACT—MODIFICATION

EFFECTIVE DATE: July 27, 2025

Passed by the House April 22, 2025
Yeas 83 Nays 13

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate April 15, 2025
Yeas 45 Nays 3

DENNY HECK

President of the Senate

Approved May 17, 2025 2:04 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1975** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 19, 2025

Secretary of State
State of Washington

SECOND SUBSTITUTE HOUSE BILL 1975

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Dye, and Parshley)

READ FIRST TIME 02/28/25.

AN ACT Relating to amending the climate commitment act by adjusting auction price containment mechanisms and ceiling prices, addressing the department of ecology's authority to amend rules to facilitate linkage with other jurisdictions, and providing for market dynamic analysis; amending RCW 70A.15.2200, 70A.65.150, 70A.65.070, 70A.65.310, and 70A.65.160; adding new sections to chapter 70A.65 RCW; and creating a new section.

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

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

(1) The department shall provide analysis and forecasts of the compliance instrument markets created by this chapter, including:

(a) The prices in primary and secondary compliance instrument markets;

(b) Trends in compliance instrument supply and demand and prices;

(c) Activities in the markets, categorized by type of market participant; and

(d) The share of the allowance budget consumed by various categories of registered entities.

(2) The department must consider the analysis in subsection (1) of this section in adopting rules and otherwise implementing the requirements of this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.65 RCW to read as follows:

(1) The department shall periodically perform economic modeling for purposes of analyzing design features of the program created by this chapter. This analysis must include the following components:

(a) A baseline model assuming implementation of complementary emission reduction measures; and

(b) Additional modeling scenarios that department staff deem necessary, which must include current available technology and known adoption rates to better understand how to administer the program created by this chapter.

(2) Not later than December 31, 2026, the department must include a modeling scenario that reflects linkage with other jurisdictions.

(3) The department must post on its website the economic modeling results by December 31, 2026. The department must post updated economic modeling results by December 31, 2027, and by December 31st every two years thereafter.

(4) Economic modeling results posted by the department must contain:

(a) An estimate of program benefits including the total social cost of carbon;

(b) An estimate of the compliance cost for sectors regulated under this chapter;

(c) The department's identification of program design features contributing towards achieving the emission reduction limits established in RCW 70A.45.020; and

(d) A description of assumptions, policy decisions, and model design used in the baseline and each additional modeling scenario.

Sec. 3. RCW 70A.15.2200 and 2024 c 352 s 12 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may

require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70A.45.010 the department shall adopt rules requiring reporting of those emissions. The department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW

70A.45.010 must be reported as required under subsection (5) of this section.

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

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

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

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

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

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

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

(5)(a) The department shall adopt rules requiring persons to report emissions of greenhouse gases as defined in RCW 70A.45.010 where those emissions from a single facility, or from fossil fuels sold in Washington by a single supplier or local distribution company, meet or exceed 10,000 metric tons of carbon dioxide

equivalent annually. The department's rules may also require electric power entities to report emissions of greenhouse gases from all electricity that is purchased, sold, imported, exported, or exchanged in Washington. To the extent practicable, the department's rules must seek to minimize reporting burdens through the utilization of existing reports and disclosures for electric power entities who report greenhouse gas emissions that equal 10,000 metric tons of carbon dioxide equivalent or less annually from all electricity that is purchased, sold, imported, exported, or exchanged in Washington. The rules adopted by the department must support implementation of the program created in RCW 70A.65.060. In addition, the rules must require that:

(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass; and

(ii) ((~~Each~~)) (A) Except as provided in (a)(ii)(B) of this subsection, each annual report must include emissions data for the preceding calendar year and must be submitted to the department by March 31st of the year in which the report is due, except for an electric power entity, which must submit its report by June 1st of the year in which the report is due; ((~~and~~

~~(iii) To the extent practicable, the department's rules must seek to minimize reporting burdens through the utilization of existing reports and disclosures for electric power entities who report greenhouse gas emissions that equal 10,000 metric tons of carbon dioxide equivalent or less annually from all electricity that is purchased, sold, imported, exported, or exchanged in Washington.~~))

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

(b)(i) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has

been designated as a greenhouse gas by the United States congress, by the United States environmental protection agency, or included in external greenhouse gas emission trading programs with which Washington has linked pursuant to RCW 70A.65.210. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70A.45.010, the department shall notify the appropriate committees of the legislature.

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

(iii) The department must establish greenhouse gas emission reporting methodologies for persons who are required to report under this section. The department's reporting methodologies must be designed to address the needs of ensuring accuracy of reported emissions and maintaining consistency over time, and may, to the extent practicable, be similar to reporting methodologies of jurisdictions with which Washington has entered into a linkage agreement.

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

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

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

(e) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements

imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities permitted by the energy facility site evaluation council with the council, including notice of a facility that has failed to report as required. The energy facility site evaluation council shall contract with the department to monitor the reporting requirements adopted under this section.

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

(ii) Verification requirements apply at a minimum to persons required to report under (a) of this subsection with emissions that equal or exceed 25,000 metric tons of carbon dioxide equivalent emissions, including carbon dioxide from biomass-derived fuels, or to persons who have a compliance obligation under RCW 70A.65.080 in any year of the current compliance period. The department may adopt rules to accept verification reports from another jurisdiction with a linkage agreement pursuant to RCW 70A.65.180 in cases where the department deems that the methods or procedures are substantively similar.

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

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

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

(iv) For the purpose of this subsection (5), the term "facility" includes facilities that directly emit greenhouse gases in Washington equivalent to the threshold established under (a) of this subsection with at least one source category listed in the United States

environmental protection agency's mandatory greenhouse gas reporting regulation, 40 C.F.R. Part 98 Subparts C through II and RR through UU, as adopted on April 25, 2011.

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

Sec. 4. RCW 70A.65.150 and 2022 c 181 s 6 are each amended to read as follows:

(1) To help minimize allowance price volatility in the auction, the department shall adopt by rule an auction floor price and a schedule for the floor price to increase by a predetermined amount every year. The department may not sell allowances at bids lower than the auction floor price. The department's rules must specify holding limits that determine the maximum number of allowances that may be held for use or trade by a registered entity at any one time. The department shall also establish a reserve auction floor price to limit extraordinary prices and to determine when to offer allowances through the allowance price containment reserve auctions authorized under this section.

(2) For calendar years 2023 through 2026, the department must place no less than two percent of the total number of allowances available from the allowance budgets for those years in an allowance price containment reserve. The reserve must be designed as a mechanism to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3)(a) The department shall adopt rules for holding auctions of allowances from the price containment reserve when the settlement prices in the preceding auction exceed the adopted reserve auction floor price. The auction must be separate from auctions of other allowances.

(b) Allowances must also be distributed from the allowance price containment reserve by auction when new covered and opt-in entities

enter the program and allowances in the emissions containment reserve under RCW 70A.65.140(5) are exhausted.

(4) Only covered and opt-in entities may participate in the auction of allowances from the allowance price containment reserve.

(5) The process for reserve auctions is the same as the process provided in RCW 70A.65.100 and the proceeds from reserve auctions must be treated the same.

(6) The department shall by rule:

(a) Set the reserve auction floor price in advance of the reserve auction. The department may choose to establish multiple price tiers for the allowances from the reserve;

(b) Establish the requirements and schedule for the allowance price containment reserve auctions; and

(c) ((~~Establish the amount of allowances to be placed in the allowance price containment reserve after the first compliance period ending in 2026~~)) Place no less than two percent and no more than five percent of the total number of allowances from the allowance budgets from 2027 to 2040 in the allowance price containment reserve.

(7) In order to contain allowance prices in advance of the timeline for linkage with other jurisdictions, the department must amend the schedule of allowance allocations adopted by rule under subsection (6) of this section to place in the allowance price containment reserve and to make available, in the second compliance period of the program, all allowances scheduled to be placed in the allowance price containment reserve through 2040.

Sec. 5. RCW 70A.65.070 and 2024 c 352 s 3 are each amended to read as follows:

(1)(a)(i) The department shall commence the program by January 1, 2023, by determining an emissions baseline establishing the proportionate share that the total greenhouse gas emissions of covered entities for the first compliance period bears to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019, based on data reported to the department under RCW 70A.15.2200 or provided as required by this chapter, as well as other relevant data. By October 1, 2022, the department shall adopt annual allowance budgets for the first compliance period of the program, calendar years 2023 through 2026, to be distributed from January 1, 2023, through December 31, 2026.

(ii) If the department enters into a linkage agreement, and the linked jurisdictions do not amend their rules to synchronize with Washington's compliance periods, the department must amend its rules to synchronize Washington's compliance periods with those of the linked jurisdiction or jurisdictions. The department may not by rule amend the length of the first compliance period to end on a date other than December 31, 2026.

(b) By October 1, 2026, the department shall add to its emissions baseline by incorporating the proportionate share that the total greenhouse gas emissions of new covered entities in the second compliance period bear to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019. In determining the addition to the baseline, the department may exclude a year from the determination if the department identifies that year to have been an outlier due to a state of emergency. The department shall adopt annual allowance budgets for the second compliance period of the program that will be distributed during the second compliance period.

(c) By October 1, 2028, the department shall adopt by rule the annual allowance budgets for the end of the second compliance period through 2040.

(2) The annual allowance budgets must be set to achieve the share of reductions by covered entities necessary to achieve the 2030, 2040, and 2050 statewide emissions limits established in RCW 70A.45.020 by December 31st of each of those years, based on data reported to the department under chapter 70A.15 RCW or provided as required by this chapter. Annual allowance budgets must be set such that the use of offsets as compliance instruments, consistent with RCW 70A.65.170, does not prevent the achievement of the emissions limits established in RCW 70A.45.020. In so setting annual allowance budgets, the department must reduce the annual allowance budget relative to the limits in an amount equivalent to offset use, or in accordance with a similar methodology adopted by the department. The department must adopt annual allowance budgets for the program on a calendar year basis that provide for progressively equivalent reductions by December 31st of each year, year over year. An allowance distributed under the program, either directly by the department under RCW 70A.65.110 through 70A.65.130 or through auctions under RCW 70A.65.100, does not expire and may be held or banked consistent with RCW 70A.65.100(6) and 70A.65.150(1).

(3) The department must complete evaluations by December 31, 2027, and December 31st of the year following the conclusion of the third compliance period, of the performance of the program, including its performance in reducing greenhouse gases. If the evaluation shows that adjustments to the annual allowance budgets are necessary for covered entities to achieve their proportionate share of the 2030 and 2040 emission reduction limits identified in RCW 70A.45.020 by December 31, 2030, and December 31, 2040, as applicable, the department shall adjust the annual allowance budgets accordingly. The department must complete additional evaluations of the performance of the program by December 31st of the year following the conclusion of the fifth and sixth compliance periods, and make any necessary adjustments in the annual allowance budgets to ensure that covered entities achieve their proportionate share of the 2050 emission reduction limit identified in RCW 70A.45.020. Nothing in this subsection precludes the department from making additional adjustments to annual allowance budgets as necessary to ensure successful achievement of the proportionate emission reduction limits by covered entities. The department shall determine and make public the circumstances, metrics, and processes that would initiate the public consideration of additional allowance budget adjustments to ensure successful achievement of the proportionate emission reduction limits.

(4) Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2015 through 2019 is deemed sufficient for the purpose of adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the first compliance period of the program. Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2023 through 2025 is deemed sufficient for adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the second compliance period of the program.

(5) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other jurisdictions. Therefore, the legislature finds that implementation of this section is contingent upon the enactment of RCW 70A.65.110.

Sec. 6. RCW 70A.65.310 and 2024 c 352 s 10 are each amended to read as follows:

(1) A covered or opt-in entity has a compliance obligation for its emissions during each compliance period, with the first compliance period commencing January 1, 2023. The department shall by rule require that covered or opt-in entities annually transfer a percentage of compliance instruments, but must fully satisfy their compliance obligation, for each compliance period. To ensure that the program created in this chapter remains implementable and capable of fulfilling a linkage agreement under RCW 70A.65.210, the department may, by rule, including emergency rule, delay or adjust the annual requirement to transfer a percentage of compliance instruments for any years for which emissions reporting deadlines are adjusted by the department under RCW 70A.15.2200(5)(a)(ii)(B).

(2) Compliance occurs through the transfer of the required compliance instruments or price ceiling units, on or before the transfer date, from the holding account to the compliance account of the covered or opt-in entity as described in RCW 70A.65.080.

(3)(a) A covered entity may substitute the submission of compliance instruments with price ceiling units.

(b) A covered or opt-in entity submitting insufficient compliance instruments to meet its compliance obligation is subject to a penalty as provided in RCW 70A.65.200.

(4) Older vintage allowances must be retired before newer vintage allowances.

(5) Upon receipt by the department of all compliance instruments transferred by a covered entity or opt-in entity to meet its compliance obligation, the department shall retire the allowances or offset credits.

Sec. 7. RCW 70A.65.160 and 2022 c 181 s 7 are each amended to read as follows:

(1)(a) The ((~~department shall establish a~~)) price ceiling for calendar years 2026 and 2027 shall be $80 to provide cost protection for covered entities obligated to comply with this chapter. ((~~The ceiling must be set at a level sufficient to facilitate investments to achieve further emission reductions beyond those enabled by the price ceiling, with the intent that investments accelerate the state's achievement of greenhouse gas limits established under RCW 70A.45.020.~~)) The department must adjust the allowance price containment reserve tier 2 price to reflect the 2026 and 2027 price

ceiling, and the price ceiling must increase annually in proportion to the reserve auction floor price established in RCW 70A.65.150(1).

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

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

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

NEW SECTION. **Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 22, 2025.
Passed by the Senate April 15, 2025.
Approved by the Governor May 17, 2025.
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