

**RCW 70A.535.040 Rules adopted under RCW 70A.535.025 and 70A.535.030—Exemptions for certain transportation fuels.** (1) The rules adopted under RCW 70A.535.030 and 70A.535.025 must include exemptions for, at minimum, the following transportation fuels:

(a) Fuels used in volumes below thresholds adopted by the department;

(b) Fuels used for the propulsion of all aircraft, vessels, and railroad locomotives; and

(c) Fuels used for the operation of military tactical vehicles and tactical support equipment.

(2) (a) The rules adopted under RCW 70A.535.030 and 70A.535.025 must exempt the following transportation fuels from greenhouse gas emissions intensity reduction requirements until January 1, 2028:

(i) Special fuel used off-road in vehicles used primarily to transport logs;

(ii) Dyed special fuel used in vehicles that are not designed primarily to transport persons or property, that are not designed to be primarily operated on highways, and that are used primarily for construction work including, but not limited to, mining and timber harvest operations; and

(iii) Dyed special fuel used for agricultural purposes exempt from chapter 82.38 RCW.

(b) Prior to January 1, 2028, fuels identified in this subsection (2) are eligible to generate credits, consistent with subsection (5) of this section. Beginning January 1, 2028, the fuels identified in this subsection (2) are subject to the greenhouse gas emissions intensity reduction requirements applicable to transportation fuels specified in RCW 70A.535.025.

(3) The department may adopt rules to specify the standards for persons to qualify for the exemptions provided in this section. The department may implement the exemptions under subsection (2) of this section to align with the implementation of exemptions for similar fuels exempt from chapter 82.38 RCW.

(4) The rules adopted under RCW 70A.535.030 and 70A.535.025 may include exemptions in addition to those described in subsections (1) and (2) of this section, but only if such exemptions are necessary, with respect to the relationship between the program and similar greenhouse gas emissions requirements or low carbon fuel standards, in order to avoid:

(a) Mismatched incentives across programs;

(b) Fuel shifting between markets; or

(c) Other results that are counter to the intent of this chapter.

(5) Nothing in this chapter precludes the department from adopting rules under RCW 70A.535.030 and 70A.535.025 that allow the generation of credits associated with electric or alternative transportation infrastructure that existed prior to July 25, 2021, or to the start date of program requirements. The department must apply the same baseline years to credits associated with electric or alternative transportation infrastructure that apply to gasoline and diesel liquid fuels in any market-based program enacted by the legislature that establishes a cap on greenhouse gas emissions. [2022 c 182 s 411; 2021 c 317 s 5.]

**Effective date—2022 c 182 ss 313, 408-414, and 421:** See note following RCW 82.21.030.

**Intent—2022 c 182:** See note following RCW 70A.65.240.

**Severability—2021 c 317:** See note following RCW 70A.535.005.