

Proposed Second Substitute House Bill 2215 (H-3463.1)

House Environment and Energy Committee

By Representative Fitzgibbon

Substitute House Bill (as recommended by the Environment and Energy Committee):

- Lowers the volume threshold that establishes a Climate Commitment Act (CCA) compliance obligation for suppliers of any combination of gasoline, diesel, biodiesel, or propane (specified fossil fuels).
 - Establishes a CCA compliance obligation for purchasers of specified fossil fuels from a business that imports, produces, or delivers specified fossil fuels without being registered under the CCA.
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Proposed Second Substitute House Bill (H-3463.1) compared to the Substitute House Bill (as recommended by the Environment and Energy Committee):

- Eliminates the new Climate Commitment Act (CCA) compliance obligation for purchasers of specified fossil fuels from a business that imports, produces, or delivers gasoline, diesel, biodiesel, or propane (specified fossil fuels) without being registered under the CCA.
- Restores the current-law CCA compliance threshold of 25,000 metric tons of carbon dioxide equivalents annually for fuel suppliers that began producing, importing, delivering, or selling specified fossil fuels in any jurisdiction before January 1, 2023.
- Authorizes the Department of Ecology (Ecology) to increase or lower the compliance threshold for fuel suppliers if practicable and necessary to ensure the goals of the CCA or eliminate significant fuel supply marketplace distortions.
- Prohibits state agencies and municipalities from awarding any contract to a fuel supplier that is not a covered entity registered under the CCA, and requires Ecology to identify such fuel sellers that are not registered under the CCA on their website.

Staff: | Jacob Lipson (786-7196) |

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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3463.1/26

ATTY/TYPIST: AF:eab

BRIEF DESCRIPTION: Concerning climate commitment act compliance obligations for fuels supplied or otherwise sold into Washington.

1 AN ACT Relating to climate commitment act compliance obligations
2 for fuels supplied or otherwise sold into Washington; amending RCW
3 70A.65.080, 70A.15.2200, 70A.65.090, and 70A.65.200; adding a new
4 section to chapter 39.26 RCW; creating a new section; and declaring
5 an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the climate
8 commitment act currently exempts from a compliance obligation fuels
9 supplied in an amount below 25,000 metric tons of associated carbon
10 dioxide equivalent annually. In establishing this exemption, it was
11 never the intent of the legislature to put large fuel suppliers at a
12 competitive disadvantage in the fuel supply marketplace relative to
13 other fuel suppliers. However, the legislature finds that current
14 trends in the fuel supply market indicate that the existing structure
15 for assigning compliance obligations may establish incentives that
16 lead to actions being taken by market participants that undercut
17 principles of fair competition in the fuel supply market.

18 (2) So that the program created by this act does not create
19 uneven economic conditions for businesses in Washington, it is the
20 intent of the legislature that:

1 (a) The climate commitment act's assignment of compliance
2 obligations associated with fuels ensure that there is a covered
3 entity associated with all fuel supplied or otherwise produced,
4 imported, or delivered in Washington, except in de minimis volumes;
5 and

6 (b) The department of ecology should seek to enforce the
7 requirements of the climate commitment act as they pertain to fuel
8 suppliers equally and even-handedly throughout Washington, including
9 with respect to different types of covered entities and in all
10 geographic regions of the state, including in overburdened
11 communities.

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

14 (1) A person is a covered entity as of the beginning of the first
15 compliance period and all subsequent compliance periods if the person
16 reported emissions under RCW 70A.15.2200 for any calendar year from
17 2015 through 2019, or if additional data provided as required by this
18 chapter indicates that emissions for any calendar year from 2015
19 through 2019 equaled or exceeded any of the following thresholds, or
20 if the person is a first jurisdictional deliverer and imports
21 electricity into the state during the compliance period:

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

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

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

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

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

37 (C) For electricity purchased from a federal power marketing
38 administration pursuant to section 5(b) of the Pacific Northwest
39 electric power planning and conservation act of 1980, P.L. 96-501, if

1 the department determines such electricity is not from a specified
2 source, the cumulative annual total of emissions associated with the
3 imported electricity exceeds 25,000 metric tons of carbon dioxide
4 equivalent.

5 (ii) In consultation with any linked jurisdiction to the program
6 created by this chapter, by October 1, 2026, the department, in
7 consultation with the department of commerce and the utilities and
8 transportation commission, shall adopt by rule a methodology for
9 addressing imported electricity associated with a centralized
10 electricity market;

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

17 (e)(i) Where the person supplies natural gas in amounts that
18 would result in exceeding 25,000 metric tons of carbon dioxide
19 equivalent emissions if fully combusted or oxidized, excluding the
20 amounts for fuel products that are produced or imported with a
21 documented final point of delivery outside of Washington and
22 combusted outside of Washington, and excluding the amounts: (A)
23 Supplied to covered entities under (a) through (d) of this
24 subsection; and (B) delivered to opt-in entities;

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

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

1 (2) (a) A person is a covered entity as of the beginning of the
2 second compliance period and all subsequent compliance periods if
3 ((the)):

4 (i) The person reported emissions under RCW 70A.15.2200 or
5 provided emissions data as required by this chapter for any calendar
6 year from 2023 through 2025, where the person owns or operates a
7 waste to energy facility utilized by a county and city solid waste
8 management program and the facility's emissions equal or exceed
9 25,000 metric tons of carbon dioxide equivalent; or

10 (ii) Except as provided in (b) of this subsection, the person is
11 a supplier of any combination of gasoline, diesel, biodiesel, or
12 propane, and the person:

13 (A) Can demonstrate that it began producing, importing,
14 delivering, or selling gasoline, diesel, biodiesel, or propane in any
15 jurisdiction before January 1, 2023, and the person reported
16 emissions under RCW 70A.15.2200 for any calendar year beginning in
17 2027 or any year thereafter for any combination of gasoline, diesel,
18 biodiesel, or propane supplied in Washington, the full combustion or
19 oxidation of which would result in 25,000 metric tons or more of
20 carbon dioxide equivalent emissions in a calendar year, excluding the
21 amounts for fuel products that are produced or imported with a
22 documented final point of delivery outside of Washington and
23 combusted outside of Washington; or

24 (B) Began producing, importing, delivering, or selling gasoline,
25 diesel, biodiesel, or propane in any jurisdiction on or after January
26 1, 2023, and the person reported emissions under RCW 70A.15.2200 for
27 any calendar year beginning in 2027 or any year thereafter for any
28 combination of gasoline, diesel, biodiesel, or propane, the full
29 combustion or oxidation of which would result in 500 metric tons or
30 more of carbon dioxide equivalent emissions in a calendar year,
31 excluding the amounts for fuel products that are produced or imported
32 with a documented final point of delivery outside of Washington and
33 combusted outside of Washington.

34 (b) The department may, by rule, lower or increase any of the
35 thresholds specified in (a) (ii) (A) or (B) of this subsection if
36 practicable and if necessary to ensure the achievement of the goals
37 of this chapter or eliminate significant distortions in the fuel
38 supply marketplace.

39 (3) A person is a covered entity as of the beginning of the third
40 compliance period, and all subsequent compliance periods if the

1 person reported emissions under RCW 70A.15.2200 or provided emissions
2 data as required by this chapter for 2027 or 2028, where the person
3 owns or operates a railroad company, as that term is defined in RCW
4 81.04.010, and the railroad company's emissions equal or exceed
5 25,000 metric tons of carbon dioxide equivalent.

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

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

35 (6) For emission sources described in subsection (1) of this
36 section that are in operation or otherwise active between 2015 and
37 2019 but were not required to report emissions for those years under
38 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,
39 coverage under the program starts in the calendar year following the
40 year in which emissions from the source exceed the applicable

1 thresholds in subsection (1) of this section as reported pursuant to
2 RCW 70A.15.2200 or provided as required by this chapter, or upon
3 formal notice from the department that the source is expected to
4 exceed the applicable emissions threshold for the first year that
5 source is required to report emissions, whichever happens first.
6 Sources meeting these criteria are required to transfer their first
7 allowances on the first transfer deadline of the year following the
8 year in which their emissions, as reported under RCW 70A.15.2200 or
9 provided as required by this chapter, were equal to or exceeded the
10 emissions threshold.

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

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

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

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

20 (d) Carbon dioxide emissions from the combustion of biomass or
21 biofuels;

22 (e)(i) Motor vehicle fuel or special fuel that is used
23 exclusively for agricultural purposes by a farm fuel user. This
24 exemption is available only if a buyer of motor vehicle fuel or
25 special fuel provides the seller with an exemption certificate in a
26 form and manner prescribed by the department. Prior to January 1,
27 2030, this exemption is available whether motor vehicle fuel or
28 special fuel is used to propel a motor vehicle or not, but beginning
29 January 1, 2030, this exemption only applies to motor vehicle fuel or
30 special fuel that the farm fuel user uses to propel a motor vehicle.

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

37 (iii) For the purposes of this subsection:

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

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

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

5 (f) Emissions from facilities with North American industry
6 classification system code 92811 (national security); and

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

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

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

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

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

38 (d) Covered emissions from an entity that is or will be a covered
39 entity under this chapter may not be the basis for denial of a permit
40 for a new or expanded facility. Covered emissions must be included in

1 the analysis undertaken pursuant to (c) of this subsection. Nothing
2 in this subsection requires a lead agency or a permitting agency to
3 approve or issue a permit to a permit applicant, including to a new
4 or expanded fossil fuel project.

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

13 **Sec. 3.** RCW 70A.15.2200 and 2025 c 320 s 3 are each amended to
14 read as follows:

15 (1) The board of any activated authority or the department, may
16 classify air contaminant sources, by ordinance, resolution, rule or
17 regulation, which in its judgment may cause or contribute to air
18 pollution, according to levels and types of emissions and other
19 characteristics which cause or contribute to air pollution, and may
20 require registration or reporting or both for any such class or
21 classes. Classifications made pursuant to this section may be for
22 application to the area of jurisdiction of such authority, or the
23 state as a whole or to any designated area within the jurisdiction,
24 and shall be made with special reference to effects on health,
25 economic and social factors, and physical effects on property.

26 (2) Except as provided in subsection (3) of this section, any
27 person operating or responsible for the operation of air contaminant
28 sources of any class for which the ordinances, resolutions, rules or
29 regulations of the department or board of the authority, require
30 registration or reporting shall register therewith and make reports
31 containing information as may be required by such department or board
32 concerning location, size and height of contaminant outlets,
33 processes employed, nature of the contaminant emission and such other
34 information as is relevant to air pollution and available or
35 reasonably capable of being assembled. In the case of emissions of
36 greenhouse gases as defined in RCW 70A.45.010 the department shall
37 adopt rules requiring reporting of those emissions. The department or
38 board may require that such registration or reporting be accompanied
39 by a fee, and may determine the amount of such fee for such class or

1 classes: PROVIDED, That the amount of the fee shall only be to
2 compensate for the costs of administering such registration or
3 reporting program which shall be defined as initial registration and
4 annual or other periodic reports from the source owner providing
5 information directly related to air pollution registration, on-site
6 inspections necessary to verify compliance with registration
7 requirements, data storage and retrieval systems necessary for
8 support of the registration program, emission inventory reports and
9 emission reduction credits computed from information provided by
10 sources pursuant to registration program requirements, staff review,
11 including engineering or other reliable analysis for accuracy and
12 currentness, of information provided by sources pursuant to
13 registration program requirements, clerical and other office support
14 provided in direct furtherance of the registration program, and
15 administrative support provided in directly carrying out the
16 registration program: PROVIDED FURTHER, That any such registration
17 made with either the board or the department shall preclude a further
18 registration and reporting with any other board or the department,
19 except that emissions of greenhouse gases as defined in RCW
20 70A.45.010 must be reported as required under subsection (5) of this
21 section.

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

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

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

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

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

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

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

17 (5)(a) The department shall adopt rules requiring persons to
18 report emissions of greenhouse gases as defined in RCW 70A.45.010
19 where those emissions from a single facility, or from fossil fuels
20 other than those specified in RCW 70A.65.080(2)(a) that are sold in
21 Washington by a single supplier or local distribution company, meet
22 or exceed 10,000 metric tons of carbon dioxide equivalent annually,
23 or from fossil fuels specified in RCW 70A.65.080(2)(a) sold in
24 Washington by a single person specified in RCW 70A.65.080(2)(a)(ii),
25 where those emissions meet or exceed the threshold specified in RCW
26 70A.65.080(2)(a) for such persons. The department's rules may also
27 require electric power entities to report emissions of greenhouse
28 gases from all electricity that is purchased, sold, imported,
29 exported, or exchanged in Washington. To the extent practicable, the
30 department's rules must seek to minimize reporting burdens through
31 the utilization of existing reports and disclosures for electric
32 power entities who report greenhouse gas emissions that equal 10,000
33 metric tons of carbon dioxide equivalent or less annually from all
34 electricity that is purchased, sold, imported, exported, or exchanged
35 in Washington. The rules adopted by the department must support
36 implementation of the program created in RCW 70A.65.060. In addition,
37 the rules must require that:

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

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

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

18 (b) (i) The department may by rule include additional gases to the
19 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has
20 been designated as a greenhouse gas by the United States congress, by
21 the United States environmental protection agency, or included in
22 external greenhouse gas emission trading programs with which
23 Washington has linked pursuant to RCW 70A.65.210. Prior to including
24 additional gases to the definition of "greenhouse gas" in RCW
25 70A.45.010, the department shall notify the appropriate committees of
26 the legislature.

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

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

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

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

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

17 (e) The energy facility site evaluation council shall,
18 simultaneously with the department, adopt rules that impose
19 greenhouse gas reporting requirements in site certifications on
20 owners or operators of a facility permitted by the energy facility
21 site evaluation council. The greenhouse gas reporting requirements
22 imposed by the energy facility site evaluation council must be the
23 same as the greenhouse gas reporting requirements imposed by the
24 department. The department shall share any information reported to it
25 from facilities permitted by the energy facility site evaluation
26 council with the council, including notice of a facility that has
27 failed to report as required. The energy facility site evaluation
28 council shall contract with the department to monitor the reporting
29 requirements adopted under this section.

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

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

1 department deems that the methods or procedures are substantively
2 similar.

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

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

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

19 (iv) For the purpose of this subsection (5), the term "facility"
20 includes facilities that directly emit greenhouse gases in Washington
21 equivalent to the threshold established under (a) of this subsection
22 with at least one source category listed in the United States
23 environmental protection agency's mandatory greenhouse gas reporting
24 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through
25 UU, as adopted on April 25, 2011.

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

34 **Sec. 4.** RCW 70A.65.090 and 2021 c 316 s 11 are each amended to
35 read as follows:

36 (1) All covered entities must register to participate in the
37 program, following procedures adopted by the department by rule.

1 (2) Entities registering to participate in the program must
2 describe any direct or indirect affiliation with other registered
3 entities.

4 (3) A person responsible for greenhouse gas emissions that is not
5 a covered entity may voluntarily participate in the program by
6 registering as an opt-in entity. An opt-in entity must satisfy the
7 same registration requirements as covered entities. Once registered,
8 an opt-in entity is allowed to participate as a covered entity in
9 auctions and must assume the same compliance obligation to transfer
10 compliance instruments equal to their emissions at the appointed
11 transfer dates. An opt-in entity may opt out of the program at the
12 end of any compliance period by providing written notice to the
13 department at least six months prior to the end of the compliance
14 period. The opt-in entity continues to have a compliance obligation
15 through the current compliance period. An opt-in entity is not
16 eligible to receive allowances directly distributed under RCW
17 70A.65.110, 70A.65.120, or 70A.65.130.

18 (4) A person that is not covered by the program and is not a
19 covered entity or opt-in entity may voluntarily participate in the
20 program as a general market participant. General market participants
21 must meet all applicable registration requirements specified by rule.

22 (5) Federally recognized tribes and federal agencies may elect to
23 participate in the program as opt-in entities or general market
24 participants.

25 (6) The department shall use a secure, online electronic tracking
26 system to: Register entities in the state program; issue compliance
27 instruments; track ownership of compliance instruments; enable and
28 record compliance instrument transfers; facilitate program
29 compliance; and support market oversight.

30 (7) The department must use an electronic tracking system that
31 allows two accounts to each covered or opt-in entity:

32 (a) A compliance account where the compliance instruments are
33 transferred to the department for retirement. Compliance instruments
34 in compliance accounts may not be sold, traded, or otherwise provided
35 to another account or person.

36 (b) A holding account that is used when a registered entity is
37 interested in trading allowances. Allowances in holding accounts may
38 be bought, sold, transferred to another registered entity, or traded.
39 The amount of allowances a registered entity may have in its holding
40 account is constrained by the holding limit as determined by the

1 department by rule. Information about the contents of each holding
2 account, including but not limited to the number of allowances in the
3 account, must be displayed on a regularly maintained and searchable
4 public website established and updated by the department.

5 (8) Registered general market participants are each allowed an
6 account, to hold, trade, sell, or transfer allowances.

7 (9) The department shall maintain an account for the purpose of
8 retiring allowances transferred by registered entities and from the
9 voluntary renewable reserve account.

10 (10) The department shall maintain a public roster of all covered
11 entities, opt-in entities, and general market participants on the
12 department's public website. The roster must specify the provision of
13 RCW 70A.65.080 (1), (2), or (3) under which each covered entity is
14 determined to be a covered entity, and must identify any fuel sellers
15 described in RCW 70A.65.200(1)(b).

16 (11) The department shall include a voluntary renewable reserve
17 account.

18 **Sec. 5.** RCW 70A.65.200 and 2024 c 352 s 8 are each amended to
19 read as follows:

20 (1) (a) All covered and opt-in entities are required to submit
21 compliance instruments in a timely manner to meet the entities'
22 compliance obligations and shall comply with all requirements for
23 monitoring, reporting, holding, and transferring emission allowances
24 and other provisions of this chapter.

25 (b) In addition to the penalty provisions of this section, a
26 seller of any combination of gasoline, diesel, biodiesel, and propane
27 fuel that is not registered with the department under this chapter,
28 or that is determined by the department to be out of compliance with
29 the requirements of this chapter, is ineligible to receive any
30 contract awarded by the state, any state agency, or any municipality,
31 consistent with section 6 of this act.

32 (2) If a covered or opt-in entity does not submit sufficient
33 compliance instruments to meet its compliance obligation by the
34 specified transfer dates, a penalty of four allowances for every one
35 compliance instrument that is missing must be submitted to the
36 department within six months. When a covered entity or opt-in entity
37 reasonably believes that it will be unable to meet a compliance
38 obligation, the entity shall immediately notify the department. Upon

1 receiving notification, the department shall issue an order requiring
2 the entity to submit the penalty allowances.

3 (3) If a covered entity or opt-in entity fails to submit penalty
4 allowances as required by subsection (2) of this section, the
5 department must issue an order or issue a penalty of up to \$10,000
6 per day per violation, or both, for failure to submit penalty
7 allowances as required by subsection (2) of the section. The order
8 may include a plan and schedule for coming into compliance.

9 (4) The department may issue a penalty of up to \$50,000 per day
10 per violation for violations of RCW 70A.65.100(8) (a) through (e).

11 (5) Except as provided in subsections (3) and (4) of this
12 section, any person that violates the terms of this chapter or an
13 order issued under this chapter incurs a penalty of up to \$10,000 per
14 day per violation for each day that the person does not comply. All
15 penalties under subsections (3) and (4) of this section and this
16 subsection must be deposited into the climate investment account
17 created in RCW 70A.65.250.

18 (6) Orders and penalties issued under this chapter are appealable
19 to the pollution control hearings board under chapter 43.21B RCW.

20 (7) Until the department enters into a linkage agreement or until
21 the end of the first compliance period, whichever is sooner, the
22 department may reduce the amount of the penalty by adjusting the
23 monetary amount or the number of penalty allowances described in
24 subsections (2) and (3) of this section.

25 (8) An electric utility or natural gas utility must notify its
26 retail customers and the environmental justice council in published
27 form within three months of paying a monetary penalty under this
28 section.

29 (9)(a) No city, town, county, township, or other subdivision or
30 municipal corporation of the state may implement a charge or tax
31 based exclusively upon the quantity of greenhouse gas emissions.

32 (b) No state agency may adopt or enforce a greenhouse gas pricing
33 or market-based emissions cap and reduce program for stationary
34 sources, or adopt or enforce emission limitations on greenhouse gas
35 emissions from stationary sources except as:

36 (i) Provided in this chapter;

37 (ii) Authorized or directed by a state statute in effect as of
38 July 1, 2022; or

39 (iii) Required to implement a federal statute, rule, or program.

1 (c) This chapter preempts the provisions of chapter 173-442 WAC,
2 and the department shall repeal chapter 173-442 WAC.

3 ~~((10) (a) By December 1, 2023, the office of financial management
4 must submit a report to the appropriate committees of the legislature
5 that summarizes two categories of state laws other than this chapter:~~

6 ~~(i) Laws that regulate greenhouse gas emissions from stationary
7 sources, and the greenhouse gas emission reductions attributable to
8 each chapter, relative to a baseline in which this chapter and all
9 other state laws that regulate greenhouse gas emissions are presumed
10 to remain in effect; and~~

11 ~~(ii) Laws whose implementation may effectuate reductions in
12 greenhouse gas emissions from stationary sources.~~

13 ~~(b) The state laws that the office of financial management may
14 address in completing the report required in this subsection include,
15 but are not limited to:~~

16 ~~(i) Chapter 19.27A RCW;~~

17 ~~(ii) Chapter 19.280 RCW;~~

18 ~~(iii) Chapter 19.405 RCW;~~

19 ~~(iv) Chapter 36.165 RCW;~~

20 ~~(v) Chapter 43.21F RCW;~~

21 ~~(vi) Chapter 70.30 RCW;~~

22 ~~(vii) Chapter 70A.15 RCW;~~

23 ~~(viii) Chapter 70A.45 RCW;~~

24 ~~(ix) Chapter 70A.60 RCW;~~

25 ~~(x) Chapter 70A.535 RCW;~~

26 ~~(xi) Chapter 80.04 RCW;~~

27 ~~(xii) Chapter 80.28 RCW;~~

28 ~~(xiii) Chapter 80.70 RCW;~~

29 ~~(xiv) Chapter 80.80 RCW; and~~

30 ~~(xv) Chapter 81.88 RCW.~~

31 ~~(c) The office of financial management may contract for all or
32 part of the work product required under this subsection.))~~

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.26
34 RCW to read as follows:

35 (1) A seller of any combination of gasoline, diesel, biodiesel,
36 and propane fuel that is not registered with the department of
37 ecology under chapter 70A.65 RCW, or that is determined by the
38 department of ecology to be out of compliance with the requirements

1 of chapter 70A.65 RCW, is ineligible to receive any contract awarded
2 by the state, any state agency, or any municipality.

3 (2) For purposes of this section, "municipality" means every
4 city, county, town, special purpose district, political subdivision,
5 or instrumentality of the state.

6 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

10 NEW SECTION. **Sec. 8.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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