

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-3138.1/16

ATTY/TYPIST: ML:akl

BRIEF DESCRIPTION:

AN ACT Relating to implementing a pollution market program to reduce greenhouse gas emissions; amending RCW 43.21B.110, 43.21B.110, 70.235.010, 70.235.020, and 70.94.151; reenacting and amending RCW 42.56.270; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; creating new sections; prescribing penalties; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** INTENT AND FINDINGS. (1) The people find that the global climate crisis is harming the state and that without substantial reductions in the emissions that are causing the earth's temperature to increase, the harm to the state will be greatly increased. While Washington's emissions are only a small part of the global emissions of polluting gases, the state must act to reduce its own emissions while providing leadership and a model for action by other jurisdictions to address their own emissions. The 2008 legislature established statewide emission limits that are to be achieved by 2020, 2035, and 2050, but did not enact a comprehensive program to ensure that the emission reductions would be accomplished. Through this act, the people intend to provide such a program to meet Washington state's commitment to its present and future generations to fully address the climate crisis.

(2) The centerpiece of this program is the creation of a cost-effective pollution market for reducing greenhouse gas emissions that is capable of being integrated with emission reduction programs in other jurisdictions. The Washington program will allow the state to achieve the statewide emission reductions required by current law in the most cost-effective manner through market trading of emission allowances. By implementing this program, the state will not only contribute its fair share of necessary global emission reductions, but will also grow the state's clean energy economy and provide greater certainty to Washington businesses.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Allowance" means a tradable authorization to emit up to one metric ton of carbon dioxide equivalent.

(2) "Allowance price containment reserve" means an account maintained by the department with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3) "Annual allowance budget" means the total number of greenhouse gas allowances allocated for auction or distribution for one calendar year by the department.

(4) "Auction" means the process of selling greenhouse gas allowances, along with allowances from external greenhouse gas emissions trading programs with which Washington has linked its pollution market program, by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

(5) "Auction floor price" means a price for allowances below which bids at auction would not be accepted.

(6) "Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

(7) "Carbon dioxide equivalent" means a measure used to compare the emissions from various greenhouse gases based on their global warming potential.

(8) "Compliance instrument" means an allowance or offset credit, issued by the department or by an external greenhouse gas emissions trading program to which Washington has linked its pollution market program. A covered or opt-in entity may use one compliance instrument to fulfill each compliance obligation equivalent to one metric ton of carbon dioxide equivalent.

(9) "Compliance obligation" means the requirement to turn in to the department the number of compliance instruments equal to a covered or opt-in entity's covered emissions during the compliance period.

(10) "Compliance period" means the three-year period for which the compliance obligation is calculated for covered and opt-in entities except for the first compliance period. The first compliance period is from July 1, 2017, through December 31, 2018.

(11) "Covered entity" means a person with a compliance obligation, and who has emitted or is otherwise responsible, as specified in this chapter, for emissions that are more than the applicable emission threshold.

(12) "Department" means the department of ecology.

(13) "Emission threshold" means the greenhouse gas emission level at or above which a person has a compliance obligation.

(14) "External greenhouse gas emission trading program" means a government program, other than Washington's pollution market program created in this chapter, that controls greenhouse gas emissions from sources outside of Washington through an emissions trading program.

(15) "Facility," unless otherwise specified in subparts C through II of 40 C.F.R. Part 98 as adopted on April 25, 2011, or proposed by December 1, 2010, means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas. "Facility" includes a refinery facility.

(16) "First jurisdictional deliverer" means the first person over which the state of Washington has jurisdiction that generates or procures electricity for use within the state and delivers that electricity to the first point of delivery.

(17) "General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity who is

registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

(18) "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄), nitrogen trifluoride (NF₃), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases.

(19) "Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

(20) "Imported electricity" means electricity generated outside the state of Washington and delivered for use within the state, but which did not originate from any jurisdiction with which Washington has a linkage agreement.

(21) "Limits" means the greenhouse gas emission reductions required for Washington state by 2020, 2035, and 2050, as specified in RCW 70.235.020(1).

(22) "Linkage agreement" means a formal agreement that connects two or more pollution market programs to reciprocally recognize each jurisdiction's compliance instruments.

(23) "Offset credit" means a tradable compliance instrument that represents an emission reduction or emission removal of one metric ton of carbon dioxide equivalent.

(24) "Offset project" means a project that reduces or removes greenhouse gases that derive from sources not covered by the program.

(25) "Offset protocols" means a set of procedures and requirements to quantify greenhouse gas reductions or greenhouse gas removals achieved by an offset project.

(26) "Opt-in entity" is a person responsible for the emission of greenhouse gases not covered by the program and that voluntarily chooses to participate in the program as if it were a covered entity.

(27) "Person" means an individual, firm, partnership, franchise holder, association, organization, corporation, business trust, company, limited liability company, or government entity.

(28) "Point of delivery" means a point on the electricity transmission or distribution system physically located in Washington where a power supplier delivers electricity for use in the state. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

(29) "Program" means the pollution market program implemented under this chapter.

(30) "Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

(31) "Refinery facility" means a facility that is operated by a person who is also a fuel supplier.

(32) "Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

(33) "Retire" means to permanently remove an allowance or offset credit such that the allowance or offset credit may never be sold, traded, or otherwise used again.

(34) "Supplier" means a supplier of:

(a) Fuel that produces, refines, imports, or delivers, or any combination of producing, refining, importing, or delivering, a quantity of fuel in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gas equivalent to or higher than the threshold established under RCW 70.94.151(5) (a); or

(b) Carbon dioxide that produces, imports, or delivers a quantity of carbon dioxide in Washington that, if released, would result in emissions equivalent to or higher than the threshold established under RCW 70.94.151(5) (a).

(35) "Surrender" means to transfer an allowance or offset credit to the department, either to meet a compliance obligation or on a voluntary basis.

NEW SECTION. **Sec. 3.** POLLUTION MARKET PROGRAM CREATED. (1) In order for the state's emission reduction limits established in RCW 70.235.020 to be achieved, the department shall implement a pollution market program for emissions from covered entities by creating and distributing allowances that are tradable regionally, nationally, and internationally.

(2) The program shall consist of:

(a) Annual allowance budgets that limit emissions from covered entities, as provided in section 4 of this act;

(b) Defining those entities covered by the program, and those entities that may voluntarily opt into coverage under the program, as provided in sections 5 and 6 of this act;

(c) Distribution of emission allowances by auction, as provided in section 7 of this act, and allowance price containment provisions under section 8 of this act;

(d) Providing for offset credits as a method for meeting a compliance obligation, pursuant to section 9 of this act;

(e) Defining the compliance obligation for covered entities, as provided in section 10 of this act;

(f) Establishing the authority of the department to enforce the program requirements, as provided in section 11 of this act;

(g) Creating a pollution reduction account for the deposit of receipts from the distribution of emission allowances and authorizing the use of program funds in the account to address state budget priorities, mitigate disproportionate effects on at-risk communities and business sectors, and further reduce emissions, as described in section 12 of this act;

(h) Establishing programs to support businesses that may be significantly affected by the program, as provided in sections 13 through 16 of this act;

(i) Providing for the transfer of allowances and recognition of compliance instruments issued by jurisdictions that enter into linkage agreements with the state, as provided in section 17 of this act;

(j) Providing for allowance market monitoring and oversight, and creating the financial advisory committee to provide advice to the department in the implementation of the program, as provided in section 18 of this act; and

(k) Creating, in section 19 of this act, an economic justice and environmental equity advisory committee to monitor for and advise on solutions to unwanted program impacts on jobs and vulnerable communities.

(3) The department shall implement the program in a manner that allows linking the state's program with other jurisdictions having similar programs.

NEW SECTION. **Sec. 4.** SETTING ANNUAL ALLOWANCE BUDGETS. (1) (a) The department shall commence the program on July 1, 2017. The department shall determine the total combined emissions expected from all covered entities with a compliance obligation under the program. Based on those combined emissions, the department shall establish an annual allowance budget for each year of the program, consistent with subsections (2) through (4) of this section. The department must set annual allowance budgets to gradually reduce the total combined emissions from the covered entities to meet their combined share of the emission reductions required for the state to achieve the emission limits established in RCW 70.235.020. The combined share of covered entities emission reduction obligations is the proportion of the greenhouse gas emissions by covered entities in 2017 relative to the state's overall emissions that year.

(b) By January 1, 2017, the department shall establish by rule the annual allowance budgets for July 1, 2017, to December 31, 2017, and for January 1, 2018, to December 31, 2018, based on the best

estimate of the expected combined emissions for the sources covered by the program.

(2) By January 1, 2018, the department shall adopt by rule the annual allowance budgets for the combined emissions of the covered entities for each year from January 1, 2019, to December 31, 2026. The department must submit a report to the appropriate fiscal and policy committees of the legislature by January 1, 2018, that describes the methodology it used to calculate the annual allowance budgets established by this subsection. The report must also include an analysis, in consultation with covered entities, of the technologies available to achieve the emissions reductions required by the allowance budgets without compromising jobs and productivity.

(3) By January 1, 2026, annual allowance budgets for each year from January 1, 2027, to December 31, 2036, must be set by rule after conducting an evaluation of the performance of the program and determining whether adjustments are needed. The evaluation must be completed by December 31, 2024.

(4) The department shall adopt by rule the conditions under which it may revise annual allowance budgets. However, the department may not revise annual allowance budgets prior to the compliance period beginning January 1, 2021.

NEW SECTION. **Sec. 5.** ENTITIES REQUIRED TO BE COVERED IN THE PROGRAM. (1) Except as provided in subsections (2) and (5) of this section and section 6(5) of this act, a person is a covered entity as of the beginning of the first compliance period and all subsequent compliance periods if the person reported emissions under RCW 70.94.151 in any calendar year from 2012 through 2014 that equals or exceeds any of the following thresholds:

(a) Where the person operates a facility and the facility's emissions equal or exceed twenty-five thousand metric tons of carbon dioxide equivalent;

(b) Where the person is a first jurisdictional deliverer bringing electricity into the state and the cumulative annual total

of emissions associated with imported electricity into the state equals or exceeds twenty-five thousand metric tons of carbon dioxide equivalent. The person must have either full or partial ownership in the facility providing the imported electricity, or a written power contract to procure the imported electricity at the facility, at the time of entry of the transaction to procure electricity in order for the associated emissions to be derived from the facility emissions. Otherwise, the associated emissions are deemed to be unspecified and an appropriate emissions factor must be adopted by the department of commerce by rule;

(c) Where the person is a fuel supplier and has reported twenty-five thousand metric tons or more of carbon dioxide equivalent emissions that would result from the full combustion or oxidation of the supplied fuels and has a compliance obligation for the emissions from the full combustion or oxidation of those supplied fuels consistent with subsection (6) (b) (iii) of this section;

(d) Where the person operates a facility and is a direct purchaser from a federal power market agency of electricity whose associated emissions from both the facility and purchased electricity equals or exceeds twenty-five thousand metric tons of carbon dioxide equivalent.

(2) When a covered entity reports, during a compliance period, emissions for a facility under RCW 70.94.151 that are below the thresholds specified in subsection (1) of this section, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity demonstrates emissions below the threshold during an entire compliance period, or has ceased all processes at the facility requiring reporting under RCW 70.94.151, the entity is no longer a covered entity having a compliance obligation until such time as the emissions from the facility again exceed the threshold.

(3) For types of emission sources described in subsection (1) of this section that begin or modify operation after January 1, 2014, coverage under the program starts in the calendar year where

emissions from the source exceed the applicable thresholds in subsection (1) of this section. Sources meeting these conditions are required to surrender their first allowances on the first surrender deadline of the year following the year in which their emissions were equal to or exceeded the emissions threshold.

(4) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2012 through 2014 but were not required to report emissions for those years, coverage under the program starts in the calendar year following the year where emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70.94.151, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold for the first year that source is required to report emissions, whichever happens first. Sources meeting these conditions are required to surrender their first allowances on the first surrender deadline of the year following the year in which their emissions, as reported under RCW 70.235.020, were equal to or exceeded the emissions threshold.

(5) Emissions that are not required to be reported under RCW 70.94.151 are not covered by the program. In addition, the following emissions are not covered by the program, regardless of the emissions reported under RCW 70.94.151:

(a) Emissions from the combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals, as long as the source biomass is harvested pursuant to an approved timber management plan prepared in accordance with the forest practices act under chapter 76.09 RCW, a habitat conservation plan, or other state or federally approved management plan, or harvested under an approved forest fire fuel reduction or forest stand improvement plan;

(b) Emissions from combustion of biofuels or the biofuel component of blended fuels, as the term "biofuels" is defined in RCW 43.325.010;

(c) Emissions from the combustion of aviation fuels during a flight originating or terminating outside of Washington;

(d) Vented or fugitive emissions that are unintentional and could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening;

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

(f) Emissions from facilities with 2012 North American industry classification system code 92811 (national security).

(6) (a) The department may not require multiple covered entities to have a compliance obligation for the same emissions.

(b) (i) The operator of a facility that is a covered entity under subsection (1) (a) of this section, other than a refinery facility, has the compliance obligation for the emissions associated with natural gas delivered to the facility by a natural gas supplier and the emissions associated with this delivered natural gas are not part of the compliance obligation of the natural gas supplier.

(ii) The operator of a refinery facility that is a covered entity under subsection (1) (a) of this section has a compliance obligation equal to the sum of the refinery facility's reported emissions and the emissions associated with the combustion of the fuel that the refinery facility operator supplies.

(iii) The compliance obligation for a fuel supplier that is a covered entity under subsection (1) (c) of this section must be reduced by the total amount of the emissions associated with any fuel obtained from a refinery facility as determined under (b) (ii) of this subsection. In order for this compliance obligation to be reduced, the fuel supplier must demonstrate that the applicable fuel was obtained from a refinery facility that is a covered entity, in a manner prescribed by the department by rule.

NEW SECTION. **Sec. 6.** REGISTRATION REQUIREMENTS FOR PROGRAM PARTICIPATION. (1) All covered entities must register to

participate in the program, following procedures adopted by the department by rule.

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

(3) A person responsible for greenhouse gas emissions that is not a covered entity may voluntarily participate in the program by registering as an opt-in entity. An opt-in entity must satisfy the same registration requirements as covered entities. Once registered, an opt-in entity is allowed to participate as a covered entity in auctions and assume the same compliance obligation to surrender compliance instruments equal to their emissions at the appointed surrender dates. An opt-in entity may opt out of the program at the end of any compliance period by providing written notice to the department at least six months prior to the end of the compliance period. The opt-in entity continues to have a compliance obligation through the current compliance period.

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

(5) Tribal governments and federal agencies that are not covered entities may elect to participate in the program as opt-in entities or general market participants.

NEW SECTION. **Sec. 7.** ALLOWANCE DISTRIBUTION THROUGH AUCTIONS.

(1) The department shall distribute the allowances established in section 4 of this act through auctions as provided in this section and in rules adopted by the department. An allowance is not a property right.

(2) The department shall hold a maximum of four auctions annually. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual

allowance budgets from prior years that remained unsold at previous auctions. The department must auction allowances from future annual allowance budgets separately from allowances from current and previous annual allowance budgets.

(3) The department shall engage a qualified, independent contractor to run the auctions. The department shall also engage a qualified financial services administrator to hold bid guarantees, evaluate bid guarantees, and inform the department of the value of bid guarantees once the bids are accepted.

(4) The department shall issue notice for an upcoming auction at least ninety days prior to the auction. The auction must consist of a single round of sealed bids with a three hour open window and must be conducted through a secure online system.

(5) To help minimize allowance price volatility in the auction and any secondary markets, 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 through 2026. The department may not sell allowances at bids lower than the auction floor price. The department's rules shall 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.

(6) Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing. The department shall adopt by rule the requirements for a registered entity to register and participate in a given auction.

(a) Registered entities intending to participate in an auction must submit an application to participate at least thirty days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is eligible to participate only after receiving a notice of approval from the department or its designee.

(b) Each registered entity that elects to participate in the auction must have a different representative. Only representatives with an approved auction account are authorized to access the

auction platform to submit an application or confirm the intent to bid for the registered entity, submit bids on behalf of the registered entity during the bidding window, or to download reports specific to the auction.

(c) A registered entity intending to participate in an auction must submit to the financial services administrator a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity. The bid guarantee can be cash in the form of a wire transfer, an irrevocable letter of credit from a financial institution with a United States banking license, a bond issued by a financial institution with a United States banking license, or a security bond issued by an institution named in the United States treasury department list of acceptable security companies.

(7) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to the following auction purchase limits:

(a) A covered entity or an opt-in entity may not buy more than fifteen percent of the allowances offered during a single auction, except as provided in subsection (8) of this section;

(b) A general market participant may not buy more than four percent of the allowances offered during a single auction;

(c) No registered entity may purchase more than the entity's bid guarantee; and

(d) No registered entity may purchase allowances that would exceed the entity's holding limit at the time of the auction.

(8) A covered entity or opt-in entity with a compliance obligation that exceeds fifteen percent of the annual allowance budget may, subject to advance approval by the department, purchase allowances beyond the allowance purchase limit in subsection (7)(a) of this section, not to exceed the entity's proportionate share, on a percentage basis, of the annual allowance budget plus ten percent of the allowances available during a single auction. Approval to

purchase these additional allowances must be secured prior to the auction and must be requested from the department at least thirty days prior to the auction.

(9) Upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit in the pollution reduction account created in section 12 of this act.

(10) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

- (a) Provided false or misleading facts;
- (b) Withheld material information that could influence a decision by the department;
- (c) Violated any part of the auction rules;
- (d) Violated registration requirements; or
- (e) Violated any of the rules regarding the conduct of the auction.

(11) Any cancellation or restriction approved by the department may be permanent or for a specified number of auctions and the cancellation or restriction imposed is in addition to any other penalties, fines, and additional remedies available under the law.

(12) The department shall design allowance auctions so as to allow, to the maximum extent practicable, linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program is linked with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with other

jurisdictions with which it has a linkage agreement under section 17 of this act. For joint auctions, the financial services administrator, the market monitor, and the auction administrator must be the same as the one employed by those jurisdictions.

NEW SECTION. **Sec. 8.** ALLOWANCE PRICE CONTAINMENT RESERVE. (1)

At the start of the program, the department shall place four percent of the total number of allowances available for 2017 to 2026 in the allowance price containment reserve. The price containment 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.

(2) The department shall auction allowances from the allowance price containment reserve once a quarter each year through reserve sales, separate from the auction of other allowances. Allowances unsold through the reserve auction must be made available again at future reserve auctions.

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

(4) The process for reserve auctions is the same as the process outlined in section 7 of this act and the proceeds from reserve auctions must be treated the same.

(5) The department shall by rule:

(a) Set the auction floor price for allowances from the allowance price containment reserve in advance of the reserve auction. The department shall set the auction floor price high enough to incentivize direct emissions reductions. The department may choose to establish multiple price tiers for the allowances from the allowance price containment reserve;

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

(c) Establish the percent of allowances to be set aside for the allowance price containment reserve after the compliance period ending in 2026.

NEW SECTION. **Sec. 9.** OFFSET CREDITS. (1) The department shall adopt by rule the protocols for establishing offset projects and securing offset credits that can be used to meet a portion of a covered entity's or opt-in entity's compliance obligation under section 10 of this act.

(2) The protocols must require that offset projects result in greenhouse gas emission reductions or removals from the atmosphere that are real, quantifiable, permanent, verifiable, and enforceable, and that would occur in addition to other existing requirements. The offset protocols must, where available, use established criteria, methods to determine baseline assumptions, emission factors, and monitoring methods. The protocols must:

(a) Specify the amount of greenhouse gas emission reductions and removals achieved by the offset project type, in relation to a project baseline that estimates business-as-usual performance or practices for the offset project type, and accounting for any uncertainty in quantification protocols;

(b) Ensure greenhouse gas emission reductions and removals are permanent as defined by the particular offset protocol, including the length of time for which an offset project can generate offset credits; and

(c) Specify the data collection and monitoring procedures required for each offset project type.

(3) The department shall coordinate the review, development, and approval of offset protocols with any jurisdiction to which Washington has a linkage agreement pursuant to section 17 of this act.

(4) Until January 1, 2021, an offset credit may only be created for the following offset types and only if offset protocols have been adopted by rule by the department:

(a) Projects that prevent greenhouse gas emissions through anaerobic digestion of organic wastes;

(b) Projects that reduce emissions of ozone depleting substances;

(c) Projects that capture methane from mining and other resource extraction and transmission projects; and

(d) Projects that sequester biogenic or atmospheric carbon through forestry and agricultural practices. In reviewing, developing, and approving offset protocols for forestry and agricultural practices, the department must, in consultation with the department of natural resources and the department of agriculture, develop protocols unique to Washington and that accredit the widest possible range of forestry and agriculture projects that sequester carbon.

(5) An offset project proponent must apply to register a project with the department within one year of commencing the project.

(6) The department shall submit a report to the legislature by September 1, 2019, that describes any decision of the department to expand or modify the eligible project categories starting in 2021.

(7) The department shall adopt rules setting out the criteria and procedures for the recognition of offset credits as a method for meeting a part of a compliance obligation by a covered entity. The rules must incorporate the following criteria and limitations:

(a) The offset project proponent must be registered to conduct business in Washington, or have a designated agent legally qualified to receive service of process, and is responsible for all statements and information required for recognition of the credit;

(b) A single offset credit must represent a reduction or removal of one metric ton of carbon dioxide equivalent that results from a clearly identified action or decision. A credit:

(i) May be created only for an offset project or activity that commenced on or after January 1, 2017;

(ii) May be awarded only for the portion of the emission reductions or removals that would not have occurred under the project baseline;

(iii) Must not derive from emissions otherwise subject to a compliance obligation under the program;

(iv) Must result from actions that are not already required by law, regulation, court order, or legally binding agreement; and

(v) Is not allowed if the offset credit has been claimed in any other external greenhouse gas emission trading program;

(c) The geographic boundary for an offset project must be within the United States, Canada, or Mexico;

(d) The offset project's greenhouse gas reduction or removal must be quantified and verified by an independent third-party verifier accredited by the department or accredited by any jurisdiction with which Washington has a linkage agreement pursuant to section 17 of this act; and

(e) Offset credits generated from offset projects located in Washington are not valid until approved by the department. Offset credits for projects located outside of Washington are subject to approval by Washington unless, through a linkage agreement, responsibility for offset approval is shared across linked jurisdictions.

(8) The offset credit must be registered and tracked as a compliance instrument under section 20 of this act.

(9) All information on offset protocols, projects, and credits must be made public and posted on the department's web site.

(10) The department shall invalidate offset credits if they are found to be fraudulent through a process adopted by rule by the department. The offset credit buyer is liable if the offset credits are invalidated. If some or all of the offset credits are invalidated, the covered or opt-in entity must, within six months of that invalidation, surrender replacement credits or allowances to meet its compliance obligation.

NEW SECTION. **Sec. 10.** COMPLIANCE REQUIREMENTS. (1) A covered or opt-in entity has a compliance obligation for its emissions from each three-year compliance period, except for the first compliance period that will only cover emissions from July 1, 2017, through December 31, 2018.

(2) A covered or opt-in entity shall surrender a number of compliance instruments equal to their total verified emissions as reported in accordance with RCW 70.94.151 as follows:

(a) By November 1, 2019, all covered and opt-in entities shall submit all of their compliance instruments for the first compliance period.

(b) Beginning November 1, 2020, thirty percent of a covered or opt-in entity's compliance obligation for the previous year's covered emissions must be submitted annually on November 1st for the first and second years of each three-year compliance period thereafter.

(c) Beginning November 1, 2021, and every three years thereafter by November 1st, every covered and opt-in entity must submit compliance instruments covering the remainder of their emissions for the prior compliance period.

(d) Submission of allowances occurs through the transfer of compliance instruments, on or before the surrender date, from the holding account to the compliance account of the covered or opt-in entity as described in section 20 of this act.

(3) The department must determine whether the covered or opt-in entity submitted, by the specified surrender date, a sufficient number of compliance instruments. A covered entity or opt-in entity submitting insufficient compliance instruments to meet its compliance obligation is subject to a penalty as provided in section 11 of this act.

(4) Surrendered allowances must be from an allowance budget year that is from the current year or any previous compliance year.

(5) An emission allowance may be surrendered in the same compliance period in which it is created or in any future compliance period. An emission allowance does not expire and may be banked by a registered entity for future use.

(6) A covered or opt-in entity may not borrow an allowance from a future allowance year to meet a current or past compliance obligation.

(7) A compliance instrument representing an offset credit provided by the covered or opt-in entity or opt-in entity pursuant to section 9 of this act may be submitted to meet a compliance obligation. A covered entity may submit offset credits in an amount that does not exceed eight percent of the entity's compliance obligation in a compliance period.

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

NEW SECTION. **Sec. 11.** ENFORCEMENT. (1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and submitting emission allowances and other provisions of this chapter.

(2) If a covered or opt-in entity does not submit sufficient allowances to meet its compliance obligation by the specified surrender dates, a penalty of four allowances for every one allowance that is missing must be submitted to the department within six months. When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify the department. Upon receiving notification, the department shall issue an order requiring the entity to submit the penalty allowances. Three of every four penalty allowances must be offered by the department for purchase in future auctions. One of the four allowances must be retired to fulfill the covered entity's or opt-in entity's original compliance obligation.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department may issue a civil penalty to the entity of up to ten thousand dollars for each penalty allowance that is not submitted per day. The department may also issue an order or issue a penalty of up to ten thousand dollars per day per violation, or both, for

failure to comply with any provision of this chapter or the rules adopted under this chapter. The order may include a plan and schedule for coming into compliance.

(4) Except as provided in subsection (3) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to ten thousand dollars per day per violation for each day that the person does not comply. All penalties must be deposited into the state general fund.

(5) Appeals of orders and penalties issued under this chapter must be to the pollution control hearings board under chapter 43.21B RCW.

(6) For the first compliance period, the department may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances described in subsections (2) and (3) of this section.

NEW SECTION. **Sec. 12.** POLLUTION REDUCTION ACCOUNT. (1) The pollution reduction account is created in the state treasury. All receipts from the auction of allowances paid under sections 7 and 8 of this act, and other moneys directed to the account by the legislature, must be deposited into the account. Moneys in the account may only be spent after appropriation.

(2) Beginning in fiscal year 2017 and for each fiscal year thereafter, the state treasurer shall distribute, at the start of each quarter during each fiscal year, the moneys deposited into the account during the prior quarter, as follows:

(a) Forty percent of the moneys, and additional moneys or a lesser percentage as needed to equal but not exceed four hundred million dollars in each fiscal year, deposited into the sustainability account created in section 24 of this act to support transportation projects with a priority for transit and other projects that will reduce greenhouse gas emissions, and to support transportation system maintenance and safety;

(b) Forty percent of the moneys, and additional moneys as needed to equal at least three hundred eighty million dollars in each fiscal year, deposited into the education legacy trust account created in RCW 83.100.230;

(c) Ten percent of the moneys, and additional moneys as needed to equal at least one hundred eight million dollars in each fiscal year, deposited into the state general fund to implement the working families tax rebate in RCW 82.08.0206;

(d) Two percent of the moneys, as needed to equal and not exceed fifteen million five hundred thousand dollars in fiscal year 2017, as needed to equal at least nineteen million five hundred thousand dollars in fiscal year 2018, and as needed to equal at least twenty million dollars in each fiscal year thereafter, deposited into the Washington housing trust fund created in RCW 43.185.030;

(e) Two percent of the moneys, and additional moneys as needed to equal at least twenty million dollars in each fiscal year, deposited into the general fund for purpose of funding the pollution competitiveness tax credit, pursuant to section 14 of this act; and

(f) Two percent of the moneys, and additional moneys as needed to equal at least twenty million dollars in each fiscal year, deposited into the general fund to be appropriated to the department of commerce for economic assistance to Washington rural businesses, pursuant to section 16(2) of this act.

(3) Moneys remaining in the account must be expended for the following purposes:

(a) The department's and other agencies' costs to support and administer the program including but not limited to coordination of regional auction allowance, tracking of emissions inventory, monitoring and verification, market monitor contracting, and stakeholder communication and outreach; and

(b) Investments in clean energy and other programs that achieve the purposes of this chapter.

NEW SECTION. **Sec. 13.** POLLUTION COMPETITIVENESS TAX CREDIT

PERFORMANCE. This section is the tax preference performance statement for the pollution competitiveness tax credit in section 14 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The people categorize this tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2) (a) through (f).

(2) It is the people's specific public policy objective to mitigate the impacts of compliance obligations for energy intense and trade-exposed businesses that would experience significant competitive disadvantage in selling manufactured products in other countries due to the costs of compliance with the pollution reduction program.

(3) To measure the effectiveness of the credit provided in section 14 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the following:

(a) The number of businesses that obtain a certificate from the department of commerce;

(b) The change in total taxable income for taxpayers claiming the credit under section 14 of this act;

(c) The change in total employment for taxpayers claiming the credit under section 14 of this act; and

(d) For each calendar year, the total tax credits claimed under section 14 of this act as a percentage of total taxable income for taxpayers within taxable income categories.

(4) The information provided in the annual survey submitted by the organization under RCW 82.32.585, tax data collected by the department of revenue, and data collected by the employment security department is intended to provide the informational basis for the evaluation under subsection (3) of this section.

(5) In addition to the data sources described under subsection (4) of this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (3) of this section.

NEW SECTION. **Sec. 14.** A new section is added to chapter 82.04 RCW to read as follows:

POLLUTION COMPETITIVENESS TAX CREDIT.

(1) In computing the tax imposed under this chapter, a credit is allowed for each person that possesses a valid certificate from the department of commerce under section 15 of this act. A person must file a claim for credit electronically using the department's web site.

(2) The credit is equal to fifty percent of the eligible costs incurred to satisfy the compliance obligation under section 10 of this act. The credit may not exceed the amount of tax otherwise due under this chapter for the calendar year. Credit earned in one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year until used, except that no credit may be claimed more than ten years from the end of the tax reporting period in which the credit was earned. No refunds may be granted for credits under this section.

(3) For any person claiming the credit who does not have a valid certificate from the department of commerce, the department must disallow the credit and declare the taxes against which the credit was claimed to be immediately due and payable. The department must assess interest on the taxes against which the credit was claimed, and may assess penalties. Interest must be assessed at the rate provided under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid.

(4) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during

any calendar year to exceed the greater of twenty million dollars, or the amount of funding transferred by the treasurer under section 12(2)(e) of this act. If this limitation is reached, the department must provide notification on its web site that the annual statewide limit has been reached. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within thirty days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(5) A person claiming the credit provided in this section must file a complete annual survey with the department under RCW 82.32.585.

(6) For the purposes of this section, "eligible costs" means the costs of allowances, offset credits, or other compliance instruments surrendered to the department of ecology under section 10 of this act, where the person has a valid certificate from the department of commerce at the time the compliance instruments are surrendered.

NEW SECTION. **Sec. 15.** POLLUTION COMPETITIVENESS CERTIFICATE PROGRAM. (1) By January 31, 2017, the department of commerce must adopt rules to establish:

(a) The criteria for identifying energy intense and trade-exposed businesses that would experience significant competitive disadvantage in selling manufactured products in other countries due to the costs of compliance with the pollution reduction program created in section 3 of this act;

(b) The process for a business to apply to the department of commerce for a certificate to be used to claim the tax credit established under section 14 of this act, including the information required to determine if the business meets the criteria; and

(c) The process for a business to renew the certificate every five years.

(2) The department of commerce must issue a certificate to businesses that meet the requirements of this section.

NEW SECTION. **Sec. 16.** ECONOMIC OPPORTUNITIES FOR WASHINGTON FORESTRY AND RURAL COMMUNITIES. (1) Recognizing that Washington's uniquely abundant forests are a significant factor in the state's carbon cycle, that they sequester carbon, and that forest management can be part of the solution to solving climate change, the department shall seek opportunities to further reduce and remove carbon emissions and to support the forestry sector through the management of forest carbon.

(2) The department of commerce, working with the departments of agriculture and natural resources, shall identify existing programs or develop new programs to:

(a) Provide financial assistance to assist in creating or expanding new market opportunities for Washington forest products;

(b) Help mitigate the impacts of the program on transporters of wood and food products due to potential increased fuel costs; and

(c) Otherwise assist businesses in rural communities with any potential disproportionate economic impacts of the program.

(3) The department shall work with the department of natural resources in the development of offset protocols as called for in section 9 (1) and (2) of this act that consider opportunities including but not limited to:

(a) Reducing emissions through the additional use of wood products in construction and expanded wood substitution opportunities;

(b) Incentives for forest health treatments that reduce deforestation risks;

(c) Programs to maintain or increase forest carbon stocks;

(d) Improving technical understanding of sequestration;

(e) Developing the requirements and exploring the opportunities to develop offset projects that are recognized in other external greenhouse gas emissions trading programs;

(f) Expanding transfer of development rights programs to reduce conversion risk; and

(g) Supporting ecosystem service payment programs.

NEW SECTION. **Sec. 17.** LINKING TO OTHER POLLUTION MARKETS. (1)

The department shall seek to link with other jurisdictions with established market-based emissions reduction programs in order to:

(a) Allow for the mutual use and recognition of compliance instruments issued by Washington and other linked jurisdictions;

(b) Broaden the pollution market to provide Washington businesses with greater flexibility and opportunities for reduced costs to meet their compliance obligations;

(c) Enable allowance auctions to be held jointly and provide for the use of a unified tracking system for compliance instruments;

(d) Enhance market security;

(e) Reduce program administration costs; and

(f) Provide consistent requirements for covered entities whose operations span jurisdictional boundaries.

(2) The department is authorized to execute linkage agreements with other jurisdictions with established market-based emissions reduction programs consistent with the requirements in this chapter and any rule adopted by the department. The department must adopt a rule prior to executing a linkage agreement. The rule must be supported by peer-reviewed economic analysis of the impacts of the linkage agreement. A linkage agreement must cover the following:

(a) Provisions related to quarterly auctions, including requirements for eligibility for auction participation, the use of a single auction provider to facilitate joint auctions, publication of auction-related information, process for auction participation, settlement for an auction, purchase limits by auction participant

type, bidding process, dates of auctions, and financial requirements;

(b) Provisions related to holding limits to ensure no entities in any of the programs are disadvantaged relative to their counterparts in the other jurisdictions;

(c) Other requirements such as greenhouse gas reporting and verification, offset protocols, criteria and process, and supervision and enforcement to prevent fraud, abuse, and market manipulation;

(d) Common program registry, electronic auction platform, tracking systems for compliance instruments, monitoring of compliance instruments, and auctions;

(e) Provisions to ensure coordinated administrative and technical support;

(f) Provisions to share information collected and developed under each individual jurisdiction's program, including confidential information;

(g) Provisions for public notice and participation; and

(h) Provisions to collectively resolve differences, amend the agreements, and delink or otherwise withdraw from the agreements.

(3) The state shall retain legal and policymaking authority over its program design and enforcement.

NEW SECTION. **Sec. 18.** ALLOWANCE MARKET MONITORING AND OVERSIGHT. (1) The department shall adopt by rule the processes required to buy, sell, transfer, or surrender compliance instruments.

(2) The department shall contract with an independent organization to provide the following services relating to the functioning of the compliance instrument market:

(a) Creating a market monitoring and security plan;

(b) Reviewing auction and reserve sale procedures and protocols to ensure fair and competitive auctions;

(c) Auditing and monitoring the auctions to assess the adherence of participants and the auction operator to the adopted procedures and protocols;

(d) Monitoring compliance instrument holding, transfer activity, and secondary market behavior;

(e) Preparing reports on auction results, market activities, and trends; and

(f) Reviewing program guidance documents, program rules, and other policies to mitigate market risk and improve the efficiency of the auctions and market activities.

(3) The department shall coordinate with existing state and federal market regulatory agencies, including the United States commodity futures trading commission, to ensure that all regulatory requirements for conducting trading in allowances are met. The department may consult with other jurisdictions administering emissions trading programs to observe and track market participant behavior across multiple emission trading venues.

(4) By July 1, 2017, the department shall create an independent review committee composed of financial market professionals to provide an independent assessment of the market monitoring functions and performance of the program. This committee shall provide their independent assessment to the department by July 1, 2018, and every two years thereafter.

NEW SECTION. **Sec. 19.** CITIZEN ACCOUNTABILITY. (1) An economic justice and environmental equity advisory committee is established in the executive office of the governor. The governor must appoint the members of the committee. Members of the committee must include representatives from low-income citizens, communities of color, front-line workers in fossil fuel dependent sectors from around the state, and other communities that may be disproportionately impacted by the program. The duty of the committee is to periodically evaluate the socioeconomic effects of the state's emission reduction policies. The committee shall evaluate the potential for the program

to disproportionately impact low-income and other vulnerable communities and provide advice to the governor and the appropriate fiscal and policy committees of the legislature on the expenditure of receipts from allowance auctions if adverse impacts are identified by the committee or the department.

(2) To inform the work of the committee, the department shall conduct a study, in consultation with the department of health and using existing geospatial methods, to identify communities of color and other communities that may be subject to disproportionate impacts from pollution, related changes to the climate, or from actions intended to reduce pollution.

(3) The committee shall report on its evaluation and findings to the appropriate fiscal and policy committees of the legislature and to the governor by July 1, 2017, and every two years thereafter.

NEW SECTION. **Sec. 20.** ALLOWANCE TRADING AND TRACKING

COMPLIANCE INSTRUMENTS. (1) The department shall use a secure, online electronic tracking system to: Register entities in the state program; issue compliance instruments; track ownership of compliance instruments; enable and record compliance instrument transfers; facilitate program compliance; and support market oversight. The department shall use an existing market tracking system in use by potential linked jurisdictions.

(2) Covered and opt-in entities are each allowed two accounts:

(a) A compliance account where the allowances are transferred to the department for retirement. Allowances in compliance accounts may not be sold, traded, or transferred to another account or person.

(b) A holding account that is used when a registered entity is interested or potentially interested in trading allowances.

Allowances in holding accounts can be bought, sold, or traded. The amount of allowances a registered entity may have in its holding account is constrained to the holding limit.

(3) Registered general market participants are each allowed one account, to hold, trade, sell, or surrender allowances.

(4) The department shall maintain an account for the purpose of retiring allowances surrendered by registered entities.

(5) The department may establish or use other existing tracking systems as needed for a functioning pollution market.

NEW SECTION. **Sec. 21.** PUBLIC RECORDS. In the administration of the program required by this chapter, the department shall ensure the protection from public disclosure of financial, commercial, and proprietary information whose release would place the registered entity submitting the information at a competitive disadvantage. The department shall require any of its contractors working on the program to comply with the disclosure requirements of RCW 42.56.070 and 42.56.270. Nothing in this chapter affects the department's ability to release air quality data or emissions data pursuant to RCW 70.94.205.

NEW SECTION. **Sec. 22.** RULES. (1) The department may adopt rules to implement the provisions of this chapter. To the extent possible and consistent with this chapter, the rules adopted by the department must be compatible with regulations adopted by other external greenhouse gas emissions trading programs to facilitate linkage agreements between these programs. The department must periodically review and, as necessary, update its rules to ensure compatibility with pollution market programs in linked jurisdictions.

(2) The department shall adopt emergency rules pursuant to RCW 34.05.350 for initial implementation of the program, to implement the state omnibus appropriations act for the 2015-2017 fiscal biennium, and to ensure that reporting and other program requirements are determined early for the purpose of program design and early notice to registered entities with a compliance obligation under the program.

NEW SECTION. **Sec. 23.** The department shall evaluate and report on the implementation of the program created in section 3 of this act including a review of progress on emission reductions and other observed benefits and costs of the program. The department shall submit the report, along with any recommendations for changes to the program, to the governor and the appropriate fiscal and policy committees of the legislature by November 1, 2017, and every two years thereafter.

NEW SECTION. **Sec. 24.** The sustainability account is created in the state treasury. All receipts from moneys received under section 12(2) (a) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support transportation projects with a priority for transit and other projects that will reduce greenhouse gas emissions and to support transportation system maintenance and safety.

Sec. 25. RCW 42.56.270 and 2015 c 274 s 24 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under

chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) (a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-

banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12) (a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a) (i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a) (ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17) (a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the

university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities; (~~and~~)

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565; and

(24) Financial, commercial, and proprietary information submitted to the departments of ecology and commerce pursuant to chapter 70.-- RCW (the new chapter created in section 33 of this act) and consistent with section 21 of this act.

Sec. 26. RCW 43.21B.110 and 2013 c 291 s 33 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation

commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 11 of this act, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 11 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and

technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

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

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

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

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

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

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

Sec. 27. RCW 43.21B.110 and 2013 c 291 s 34 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 11 of this act, 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 11 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

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

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

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

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

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

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

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

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

Sec. 28. RCW 70.235.010 and 2010 c 146 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(3) "Climate impacts group" means the University of Washington's climate impacts group.

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

(5) "Director" means the director of the department.

(6) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrogen trifluoride nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, other fluorinated greenhouse gases, and any other gas or gases designated by the department by rule.

(7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(8) "Program" means the department's climate change program.

~~((9) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.))~~

Sec. 29. RCW 70.235.020 and 2008 c 14 s 3 are each amended to read as follows:

(1)(a) The state shall limit emissions of greenhouse gases to achieve the following emission reductions for Washington state:

(i) By 2020, reduce overall emissions of greenhouse gases in the state to ~~((1990 levels))~~ 88.4 million metric tons of carbon dioxide equivalent;

(ii) By 2035, reduce overall emissions of greenhouse gases in the state to ~~((twenty-five percent below 1990 levels))~~ 66.3 million metric tons of carbon dioxide equivalent;

(iii) By 2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to ~~((fifty percent below 1990 levels, or seventy percent below the state's expected emissions that year))~~ 44.2 million metric tons of carbon dioxide equivalent.

(b) By December 1, 2008, the department shall submit a greenhouse gas reduction plan for review and approval to the legislature, describing those actions necessary to achieve the emission reductions in (a) of this subsection by using existing statutory authority and any additional authority granted by the legislature. Actions taken using existing statutory authority may proceed prior to approval of the greenhouse gas reduction plan.

(c) Except where explicitly stated otherwise, nothing in chapter 14, Laws of 2008 limits any state agency authorities as they existed prior to June 12, 2008.

(d) Consistent with this directive, the department shall take the following actions:

(i) Develop and implement a system for monitoring and reporting emissions of greenhouse gases as required under RCW 70.94.151; and

(ii) Track progress toward meeting the emission reductions established in this subsection, including the results from policies currently in effect that have been previously adopted by the state and policies adopted in the future, and report on that progress.

(2) By December 31st of each even-numbered year beginning in 2010, the department and the department of (~~community, trade, and economic development~~) commerce shall report to the governor and the appropriate committees of the senate and house of representatives the total emissions of greenhouse gases for the preceding two years, and totals in each major source sector. The department shall ensure the reporting rules adopted under RCW 70.94.151 allow it to develop a comprehensive inventory of emissions of greenhouse gases from all significant sectors of the Washington economy.

(3) Except for purposes of reporting, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

Sec. 30. RCW 70.94.151 and 2010 c 146 s 2 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 70.235.010 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 70.235.010 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 ten million 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 70.235.010, and supporting data, where those emissions from a single facility, ~~((source, or site,))~~ or from electricity, fossil fuels ~~((sold))~~, or carbon dioxide supplied in Washington by a single supplier, meet or exceed ten thousand metric tons of carbon dioxide equivalent annually. ~~The ((department may phase in the requirement to report greenhouse gas emissions until the reporting threshold in this subsection is met, which must occur by January 1, 2012))~~ rules adopted by the department must support implementation of the program created in section 3 of this act. 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) ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by October 31st of the year in which the report is due. However, starting in 2011, a person who is required to report greenhouse gas emissions to the United States environmental protection agency under 40 C.F.R. Part 98, as adopted on September 22, 2009, must submit the report required under this section to the department concurrent with the submission to the United States environmental protection agency. Except as otherwise provided in this section, the data for emissions in Washington and any corrections thereto that are reported to the United States environmental protection agency must be the emissions data reported to the department ~~((; and~~

~~((iii) Emissions of carbon dioxide associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington where the annual emissions associated with that combustion or oxidation equal or exceed ten thousand metric tons be reported to the department. Each~~

~~person who is required to file periodic tax reports of motor vehicle fuel sales under RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each distributor of aircraft fuel required to file periodic tax reports under RCW 82.42.040 must report to the department the annual emissions of carbon dioxide from the complete combustion or oxidation of the fuels listed in those reports as sold in the state of Washington. The department shall not require suppliers to use additional data to calculate greenhouse gas emissions other than the data the suppliers report to the department of licensing. The rules may allow this information to be aggregated when reported to the department. The department and the department of licensing shall enter into an interagency agreement to ensure proprietary and confidential information is protected if the departments share reported information. Any proprietary or confidential information exempt from disclosure when reported to the department of licensing is exempt from disclosure when shared by the department of licensing with the department under this provision)).~~
Electric power entities and persons filing an abbreviated report must submit their annual report for the preceding year by June 1st.

(b) (i) ~~((Except as otherwise provided in this subsection, the rules adopted by the department under (a) of this subsection must be consistent with the regulations adopted by the United States environmental protection agency in 40 C.F.R. Part 98 on September 22, 2009))~~ The department may allow facility operators without a compliance obligation under section 10 of this act to submit an abbreviated report. Abbreviated reports must be consistent with full reports, but may use less stringent monitoring, calculation, and verification methods.

(ii) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70.235.010 only if the gas has been designated as a greenhouse gas by the United States congress ~~((or)),~~ by the United States environmental protection agency, or included in external greenhouse gas emission trading programs where Washington has a linkage agreement in effect pursuant to section 17

of this act. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70.235.010, the department shall notify the appropriate committees of the legislature. ~~((Decisions to amend the rule to include additional gases must be made prior to December 1st of any year and the amended rule may not take effect before the end of the regular legislative session in the next year.))~~

(iii) 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 ten thousand metric tons carbon dioxide equivalent annually.

(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) (i) The department shall review and if necessary update its rules whenever:

(A) The United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases; or

(B) Needed to ensure consistency with emissions reporting requirements for jurisdictions with a linkage agreement pursuant to section 17 of this act. ~~((However,))~~

(ii) The department shall not amend its rules in a manner that conflicts with ~~((a) of)~~ this ~~((subsection))~~ section.

(d) 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.

(e) 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 ~~((unless it approves a local air authority's request to enforce the requirements for persons operating within the authority's jurisdiction. However, neither the~~

~~department nor a local air authority approved under this section are authorized to assess enforcement penalties on persons required to report under (a) of this subsection until six months after the department adopts its reporting rule in 2010)).~~ When a person that holds a compliance obligation under section 10 of this act fails to submit an emission data report or fails to obtain a positive emissions data verification statement in accordance with (g) (iii) of this subsection, the department must attempt to provide assistance to the person. If the person refuses assistance from the department, the department may develop an assigned emissions level for that person.

(f) 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.

(g) ~~The ((inclusion or failure to include any person, source, classes of persons or sources, or types of emissions of greenhouse gases into the department's rules for reporting under this section does not indicate whether such a person, source, or category is appropriate for inclusion in state, regional, or national greenhouse gas reduction programs or strategies. Furthermore, aircraft fuel purchased in the state may not be considered equivalent to aircraft fuel combusted in the state))~~ department must establish by rule the methods of verifying the accuracy of emissions reports.

(i) Verification requirements apply to persons required to report under (a) of this subsection with emissions that equal or exceed twenty-five thousand metric tons of carbon dioxide equivalent emissions, including carbon dioxide from biomass-derived fuels, or to persons who have a compliance obligation under section 10 of this act in any year of the current compliance period.

(ii) Persons subject to verification must obtain third-party verification services for that report from a verification body accredited by the department. The verification body must not have a conflict of interest when verifying the reporting person's report.

(iii) Persons are responsible for ensuring that verification services are completed and verification statements must be submitted by the verification body to the department by September 1st each year for emissions data for the preceding calendar year.

(h) (i) The definitions in RCW 70.235.010 apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel importer, as those terms are defined in RCW 82.36.010; (B) a special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms are defined in RCW 82.42.010))~~ Suppliers of fuels that produce, refine, import, or deliver, or any combination of producing, refining, importing, or delivering, a quantity of fuel in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gases 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. A refinery facility, as defined in section 2 of this act, is considered a supplier for the purposes of this section.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator (~~(, as those terms are defined by the United States environmental protection agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on September 22, 2009)~~) of a facility; (~~and~~) (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, except for the following source categories: (A) Municipal solid waste landfills; (B) industrial waste landfills; (C) industrial wastewater treatment; and (D) manure management.

(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 section 2 of this act, not otherwise included here. A federal power market agency may voluntarily report associated emissions of greenhouse gases under this section in the same manner as an electric power entity.

NEW SECTION. Sec. 31. Except where explicitly stated otherwise, nothing in this chapter limits any state agency authority as it existed prior to the effective date of this section. This act supersedes the provisions of RCW 70.235.005 to the extent that section is inconsistent with the provisions of this chapter.

NEW SECTION. **Sec. 32.** This act may be known and cited as the pollution accountability act.

NEW SECTION. **Sec. 33.** Sections 1 through 12, 15 through 24, and 31 of this act constitute a new chapter in Title 70 RCW and must be codified immediately following chapter 70.235 RCW.

NEW SECTION. **Sec. 34.** Section 26 of this act expires June 30, 2019.

NEW SECTION. **Sec. 35.** Section 27 of this act takes effect June 30, 2019.

NEW SECTION. **Sec. 36.** 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.

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