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**SENATE BILL 5698**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Ramos and Nobles

AN ACT Relating to the compliance obligation under the climate commitment act for certain municipal gas utilities; amending RCW 70A.65.080 and 70A.65.130; and adding a new section to chapter 70A.65 RCW.

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

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

(1) A municipal gas utility subject to the provisions of chapter 35.92 RCW whose associated greenhouse gas emissions did not exceed 27,000 metric tons of carbon dioxide equivalent during any year prior to 2022 may elect to pursue the alternative emission reduction pathway authorized under this section in lieu of remaining a covered entity under this chapter. If a municipal gas utility elects to pursue the alternative emission reduction pathway under this section, the department must adopt an emergency rule to adjust the allowance budget of the program applicable to years 2026 and beyond.

(2) A municipal gas utility electing to pursue the alternative emission reduction pathway authorized under this section must submit written notice to the department by September 1, 2025, informing the department of its intent to elect the alternative emission reduction pathway. This notice must be accompanied by a plan that meets the requirements of subsection (3) of this section. If the department reviews the plan and determines that it meets the requirements of subsection (3) of this section, the department must notify the utility that its plan has been approved, and the municipal gas utility is relieved of its compliance obligation as of December 31, 2025.

(3) An alternative emission reduction pathway proposed by a municipal gas utility must:

(a) Be designed to reduce the covered emissions of the municipal gas utility below 22,500 tons of carbon dioxide equivalent by 2030 and each year thereafter;

(b) At minimum, result in the targeted expenditure, on emission reduction activities under the plan, by the municipal gas utility of funds that equal or exceed the funds that would have been expended by the municipal gas utility to satisfy its compliance obligation under this chapter each year through 2030; and

(c) Describe the activities that the municipal gas utility will pursue to reduce its greenhouse gas emissions to below 22,500 tons of carbon dioxide equivalent by 2030, and demonstrate, including detailed assumptions, how the activities will result in the reduction of greenhouse gas emissions by 2030 and each year thereafter.

(4)(a) In the event that a municipal gas utility implementing an alternative emission reduction pathway fails to achieve emission reductions sufficient to drop the utility's emissions below 22,500 tons of carbon dioxide equivalent by 2030, the utility shall revert to being a covered entity for purposes of the third compliance period. Because data allowing for the department to determine whether the utility's alternative emission reduction pathway plan may not be available until midway through the third compliance period, the department must allow the utility to submit all compliance instruments to satisfy its compliance obligation during the third compliance period in the final year of the third compliance period. However, a utility whose alternative emission reduction pathway plan fails to achieve its 2030 target must also submit penalty compliance instruments in an amount equal to one compliance instrument for each ton of emissions that were not covered by the program during the years 2026 through 2030.

(b) In the event that a municipal gas utility implementing an alternative emission reduction pathway has covered emissions during any year after 2030 that exceed 22,500 tons of carbon dioxide equivalent, the municipal gas utility must become a covered entity effective as of the year its emissions exceeded 22,500 tons of carbon dioxide equivalent. A utility electing an alternative emission reduction pathway whose covered emissions exceeds 22,500 tons of carbon dioxide equivalent in any year after 2030 must also submit penalty compliance instruments in an amount equal to one compliance instrument for each ton of emissions that were not covered by the program during the years 2026 through the year that the utility resumed a compliance obligation under this chapter as a covered entity.

**Sec.**  RCW 70A.65.080 and 2024 c 352 s 4 are each amended to read as follows:

(1) 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 70A.15.2200 for any calendar year from 2015 through 2019, or if additional data provided as required by this chapter indicates that emissions for any calendar year from 2015 through 2019 equaled or exceeded any of the following thresholds, or if the person is a first jurisdictional deliverer and imports electricity into the state during the compliance period:

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

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

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

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

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

(C) For electricity purchased from a federal power marketing administration pursuant to section 5(b) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, if the department determines such electricity is not from a specified source, the cumulative annual total of emissions associated with the imported electricity exceeds 25,000 metric tons of carbon dioxide equivalent.

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

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

(e)(i) ((~~Where~~)) Except as provided in section 1 of this act, where the person supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington, and excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities;

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

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

(2) A person is a covered entity as of the beginning of the second compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2023 through 2025, where the person owns or operates a waste to energy facility utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3) A person is a covered entity as of the beginning of the third compliance period, and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for 2027 or 2028, where the person owns or operates a railroad company, as that term is defined in RCW 81.04.010, and the railroad company's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

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

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

(6) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2015 and 2019 but were not required to report emissions for those years under RCW 70A.15.2200 for the reporting periods between 2015 and 2019, coverage under the program starts in the calendar year following the year in which emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70A.15.2200 or provided as required by this chapter, 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 criteria are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions, as reported under RCW 70A.15.2200 or provided as required by this chapter, were equal to or exceeded the emissions threshold.

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

(a) Emissions from the combustion of aviation fuels;

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

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

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

(e)(i) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865.

(ii) The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period;

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

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

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

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

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

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

(d) Covered emissions from an entity that is or will be a covered entity under this chapter may not be the basis for denial of a permit for a new or expanded facility. Covered emissions must be included in the analysis undertaken pursuant to (c) of this subsection. Nothing in this subsection requires a lead agency or a permitting agency to approve or issue a permit to a permit applicant, including to a new or expanded fossil fuel project.

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

**Sec.**  RCW 70A.65.130 and 2021 c 316 s 15 are each amended to read as follows:

(1) For the benefit of ratepayers, allowances must be allocated at no cost to covered entities that are natural gas utilities.

(a) By October 1, 2022, the department shall adopt rules, in consultation with the utilities and transportation commission, establishing the methods and procedures for allocating allowances to natural gas utilities. ((~~Rules~~)) Except as provided in section 1 of this act, rules adopted under this subsection must allow for a natural gas utility to be provided allowances at no cost to cover their emissions and decline proportionally with the cap, consistent with RCW 70A.65.070. Allowances allocated at no cost to natural gas utilities must be consigned to auction for the benefit of ratepayers consistent with subsection (2) of this section, deposited for compliance, or a combination of both. The rules adopted by the department pursuant to this section must include provisions directing revenues generated under this subsection to the applicable utilities.

(b) By October 1, 2022, the department shall adopt an allocation schedule by rule, in consultation with the utilities and transportation commission, for the first two compliance periods for the provision of allowances for the benefit of ratepayers at no cost to natural gas utilities.

(c) By October 1, 2028, the department shall adopt an allocation schedule by rule, in consultation with the utilities and transportation commission, for the provision of allowances for the benefit of ratepayers at no cost to natural gas utilities for the compliance periods contained within calendar years 2031 through 2040.

(2)(a) Beginning in 2023, 65 percent of the no cost allowances must be consigned to auction for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of this chapter. Rules adopted under this subsection must increase the percentage of allowances consigned to auction by five percent each year until a total of 100 percent is reached.

(b) Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance. The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.

(c) Except for low-income customers, the customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on July 25, 2021. Bill credits may not be provided to customers of the gas utility at a location connected to the system after July 25, 2021.

(3) In order to qualify for no cost allowances, covered entities that are natural gas utilities must provide copies of their greenhouse gas emissions reports filed with the United States environmental protection agency under 40 C.F.R. Part 98 subpart NN - suppliers of natural gas and natural gas liquids for calendar years 2015 through 2021 to the department on or before March 31, 2022. The copies of the reports must be provided in electronic form to the department, in a manner prescribed by the department. The reports must be complete and contain all information required by 40 C.F.R. Sec. 98.406 including, but not limited to, information on large end users served by the natural gas utility. For any year where a natural gas utility was not required to file this report with the United States environmental protection agency, a report may be submitted in a manner prescribed by the department containing all of the information required in the subpart NN report.

(4) To continue receiving no cost allowances, a natural gas utility must provide to the department the United States environmental protection agency subpart NN greenhouse gas emissions report for each reporting year in the manner and by the dates provided by RCW 70A.15.2200(5) as part of the greenhouse gas reporting requirements of this chapter.

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