
SUBSTITUTE SENATE BILL 5703

State of Washington

69th Legislature

2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators Holy, Riccelli, Short, Christian, Fortunato, Lovelett, and Nobles)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to fair treatment of municipal solid waste
2 systems; amending RCW 70A.65.080; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds, based on a study
5 published by the department of ecology in March 2024, that the only
6 waste to energy system in the state will emit less greenhouse gases
7 when compared to the alternative of managing, hauling, and disposing
8 of that system's waste to landfills in other communities. The
9 legislature intends to treat all municipal solid waste management
10 systems equally throughout the state under the Washington cap and
11 invest program. This act achieves equal treatment of all communities
12 with municipal solid waste management systems under the Washington
13 cap and invest program by adding a narrow program exemption for the
14 state's only waste to energy municipal solid waste management system.

15 **Sec. 2.** RCW 70A.65.080 and 2024 c 352 s 4 are each amended to
16 read as follows:

17 (1) A person is a covered entity as of the beginning of the first
18 compliance period and all subsequent compliance periods if the person
19 reported emissions under RCW 70A.15.2200 for any calendar year from
20 2015 through 2019, or if additional data provided as required by this

1 chapter indicates that emissions for any calendar year from 2015
2 through 2019 equaled or exceeded any of the following thresholds, or
3 if the person is a first jurisdictional deliverer and imports
4 electricity into the state during the compliance period:

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

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

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

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

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

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

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

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

39 (e)(i) Where the person supplies natural gas in amounts that
40 would result in exceeding 25,000 metric tons of carbon dioxide

1 equivalent emissions if fully combusted or oxidized, excluding the
2 amounts for fuel products that are produced or imported with a
3 documented final point of delivery outside of Washington and
4 combusted outside of Washington, and excluding the amounts: (A)
5 Supplied to covered entities under (a) through (d) of this
6 subsection; and (B) delivered to opt-in entities;

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

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

22 ~~(2) A person is a covered entity as of the beginning of the~~
23 ~~second compliance period and all subsequent compliance periods if the~~
24 ~~person reported emissions under RCW 70A.15.2200 or provided emissions~~
25 ~~data as required by this chapter for any calendar year from 2023~~
26 ~~through 2025, where the person owns or operates a waste to energy~~
27 ~~facility utilized by a county and city solid waste management program~~
28 ~~and the facility's emissions equal or exceed 25,000 metric tons of~~
29 ~~carbon dioxide equivalent)) A person is a covered entity as of~~
30 ~~January 1, 2036, if the person reported emissions under RCW~~
31 ~~70A.15.2200 or provided emissions data as required by this chapter,~~
32 ~~where the person owns or operates a waste to energy facility utilized~~
33 ~~by a county and city solid waste management program and the~~
34 ~~facility's emissions equal or exceed 25,000 metric tons of carbon~~
35 ~~dioxide equivalent.~~

36 (3) A person is a covered entity as of the beginning of the third
37 compliance period, and all subsequent compliance periods if the
38 person reported emissions under RCW 70A.15.2200 or provided emissions
39 data as required by this chapter for 2027 or 2028, where the person
40 owns or operates a railroad company, as that term is defined in RCW

1 81.04.010, and the railroad company's emissions equal or exceed
2 25,000 metric tons of carbon dioxide equivalent.

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

20 (5) For types of emission sources described in subsection (1) of
21 this section that begin or modify operation after January 1, 2023,
22 and types of emission sources described in subsection (2) of this
23 section that begin or modify operation after (~~(2027)~~) 2036, coverage
24 under the program starts in the calendar year in which emissions from
25 the source exceed the applicable thresholds in subsection (1) or (2)
26 of this section, or upon formal notice from the department that the
27 source is expected to exceed the applicable emissions threshold,
28 whichever happens first. Sources meeting these conditions are
29 required to transfer their first allowances on the first transfer
30 deadline of the year following the year in which their emissions were
31 equal to or exceeded the emissions threshold.

32 (6) For emission sources described in subsection (1) of this
33 section that are in operation or otherwise active between 2015 and
34 2019 but were not required to report emissions for those years under
35 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,
36 coverage under the program starts in the calendar year following the
37 year in which emissions from the source exceed the applicable
38 thresholds in subsection (1) of this section as reported pursuant to
39 RCW 70A.15.2200 or provided as required by this chapter, or upon
40 formal notice from the department that the source is expected to

1 exceed the applicable emissions threshold for the first year that
2 source is required to report emissions, whichever happens first.
3 Sources meeting these criteria are required to transfer their first
4 allowances on the first transfer deadline of the year following the
5 year in which their emissions, as reported under RCW 70A.15.2200 or
6 provided as required by this chapter, were equal to or exceeded the
7 emissions threshold.

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

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

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

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

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

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

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

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

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

36 (h) Emissions from a waste to energy facility utilized by a
37 county and city solid waste management program permitted to receive
38 solid waste before 1992 that is subject to, and in compliance with,
39 chapter 70A.15 RCW and chapter 173-441 WAC. This exemption is
40 available until January 1, 2036.

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

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

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

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

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

37 (e) A lead agency under chapter 43.21C RCW or a permitting agency
38 shall allow a new or expanded facility that is a covered entity or
39 opt-in entity to satisfy a mitigation requirement for its covered
40 emissions under this chapter and under any greenhouse gas emission

1 mitigation requirements for covered emissions under chapter 43.21C
2 RCW by submitting to the department the number of compliance
3 instruments equivalent to its covered emissions during a compliance
4 period.

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