
SECOND SUBSTITUTE HOUSE BILL 1409

State of Washington

69th Legislature

2025 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Doglio, Berry, Duerr, Parshley, Reed, Ormsby, Hill, and Macri)

1 AN ACT Relating to the clean fuels program; amending RCW
2 70A.535.025, 70A.15.3150, 70A.15.3160, and 70A.535.130; reenacting
3 and amending RCW 70A.535.010 and 43.21B.110; adding new sections to
4 chapter 70A.535 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 70A.535.025 and 2022 c 182 s 408 are each amended to
7 read as follows:

8 (1) The department shall adopt rules that establish standards
9 that reduce carbon intensity in transportation fuels used in
10 Washington. The standards established by the rules must be based on
11 the carbon intensity of gasoline and gasoline substitutes and the
12 carbon intensity of diesel and diesel substitutes. The standards:

13 (a) Must reduce the overall, aggregate carbon intensity of
14 transportation fuels used in Washington;

15 (b) May only require carbon intensity reductions at the aggregate
16 level of all transportation fuels and may not require a reduction in
17 carbon intensity to be achieved by any individual type of
18 transportation fuel;

19 (c) Must assign a compliance obligation to fuels whose carbon
20 intensity exceeds the standards adopted by the department, consistent
21 with the requirements of RCW 70A.535.030; and

1 (d) Must assign credits that can be used to satisfy or offset
2 compliance obligations to fuels whose carbon intensity is below the
3 standards adopted by the department and that elect to participate in
4 the program, consistent with the requirements of RCW 70A.535.030.

5 (2) The clean fuels program adopted by the department must be
6 designed such that:

7 (a) Regulated parties generate deficits and may reconcile the
8 deficits, and thus comply with the clean fuels program standards for
9 a compliance period, by obtaining and retiring credits;

10 (b) Regulated parties and credit generators may generate credits
11 for fuels used as substitutes or alternatives for gasoline or diesel;

12 (c) Regulated parties, credit generators, and credit aggregators
13 shall have opportunities to trade credits; and

14 (d) Regulated parties shall be allowed to carry over to the next
15 compliance period a small deficit without penalty.

16 (3) The department shall, throughout a compliance period,
17 regularly monitor the availability of fuels needed for compliance
18 with the clean fuels program.

19 (4)(a) Under the clean fuels program, the department shall
20 monthly calculate the volume-weighted average price of credits and,
21 no later than the last day of the month immediately following the
22 month for which the calculation is completed, post the formula and
23 the nonaggregated data the department used for the calculation and
24 the results of the calculation on the department's website.

25 (b) In completing the calculation required by this subsection,
26 the department may exclude from the data set credit transfers without
27 a price or other credit transfers made for a price that falls two
28 standard deviations outside of the mean credit price for the month.
29 Data posted on the department's website under this section may not
30 include any individually identifiable information or information that
31 would constitute a trade secret.

32 (5)(a) Except as provided in (~~this section, the rules adopted~~
33 ~~under this section must reduce~~) (b) of this subsection, the
34 greenhouse gas emissions attributable to each unit of the fuels must
35 be reduced to ((20)) 45 percent below 2017 levels by ((2038)) January
36 1, 2038, based on the following schedule:

37 (i) (~~No more than~~) 0.5 percent each year in 2023 and 2024;

38 (ii) (~~No more than an~~) An additional one percent each year
39 (~~beginning~~) in 2025 (~~through 2027~~);

1 (iii) ~~((No more than an additional 1.5 percent each year~~
2 ~~beginning in 2028 through 2031; and~~

3 ~~(iv) No change in 2032 and 2033.~~

4 ~~(b) The rules must establish a start date for the clean fuels~~
5 ~~program of no later than January 1, 2023.~~

6 ~~(6) Beginning with the program year beginning in calendar year~~
7 ~~2028, the department may not increase the carbon intensity reductions~~
8 ~~required by the applicable clean fuels program standard adopted by~~
9 ~~the department under subsection (5) of this section beyond a 10~~
10 ~~percent reduction in carbon intensity until the department~~
11 ~~demonstrates that the following have occurred:~~

12 ~~(a) At least a 15 percent net increase in the volume of in-state~~
13 ~~liquid biofuel production and the use of feedstocks grown or produced~~
14 ~~within the state relative to the start of the program; and~~

15 ~~(b) At least one new or expanded biofuel production facility~~
16 ~~representing an increase in production capacity or producing, in~~
17 ~~total, in excess of 60,000,000 gallons of biofuels per year has or~~
18 ~~have received after July 1, 2021, all necessary siting, operating,~~
19 ~~and environmental permits post all timely and applicable appeals. As~~
20 ~~part of the threshold of 60,000,000 gallons of biofuel under this~~
21 ~~subsection, at least one new facility producing at least 10,000,000~~
22 ~~gallons per year must have received all necessary siting, operating,~~
23 ~~and environmental permits. Timely and applicable appeals must be~~
24 ~~determined by the attorney general's office.~~

25 ~~(7) Beginning with the program year beginning in calendar year~~
26 ~~2031, the department may not increase the carbon intensity reductions~~
27 ~~required by the applicable clean fuels program standard adopted by~~
28 ~~the department under subsection (5) of this section beyond a 10~~
29 ~~percent reduction in carbon intensity until the:~~

30 ~~(a) Joint legislative audit and review committee report required~~
31 ~~in RCW 70A.535.140 has been completed; and~~

32 ~~(b) 2033 regular legislative session has adjourned, in order to~~
33 ~~allow an opportunity for the legislature to amend the requirements of~~
34 ~~this chapter in light of the report required in (a) of this~~
35 ~~subsection.~~

36 ~~(8-)) An additional five percent on January 1, 2026;~~

37 ~~(iv) An additional four percent beginning January 1, 2027; and~~

38 ~~(v) As determined by the department by rule, no less than an~~
39 ~~additional three percent and no more than an additional four percent~~
40 ~~each year beginning January 1, 2028, through January 1, 2038.~~

1 (b) (i) Taking effect no earlier than January 1, 2032, the
2 department may adjust the carbon intensity standard established in
3 (a) of this subsection to require a 55 percent reduction in the
4 greenhouse gas emissions attributable to each unit of fuels by
5 January 1, 2038, and may adjust the intermediate annual reduction
6 targets for the years 2032 through 2037 established in (a) of this
7 subsection accordingly, if:

8 (A) The department determines that as of January 1, 2030, the
9 zero emission vehicle program established under chapter 70A.30 RCW
10 was not being implemented; or

11 (B) The department determines, based on the greenhouse gas
12 emissions data reported to the department for calendar year 2030,
13 that transportation emissions reported under RCW 70A.15.2200 from
14 motor vehicles covered by the requirements of this chapter have not
15 achieved a 45 percent reduction in greenhouse gas emissions
16 consistent with the state limits established in RCW 70A.45.020, and
17 that an increase of the carbon intensity standard to require a 55
18 percent reduction in the greenhouse gas emissions attributable to
19 each unit of fuel by January 1, 2038, is necessary for transportation
20 emissions covered by the requirements of this chapter to achieve a 70
21 percent reduction in greenhouse gas emissions in calendar year 2040,
22 consistent with the limits established in RCW 70A.45.020.

23 (ii) Taking into consideration the fuel supply forecasts produced
24 under RCW 70A.535.100, the department may, at any time between now
25 and 2038, adjust the carbon intensity standard for a calendar year to
26 be two percent below the carbon intensity standard for that year as
27 established in (a) of this subsection if the department determines
28 that doing so is necessary to avoid the department issuing a forecast
29 deferral under RCW 70A.535.110.

30 (6) Beginning with the program year beginning in calendar year
31 2030, the department may not increase the carbon intensity reductions
32 required by the applicable clean fuels program standard adopted by
33 the department under subsection (5) of this section beyond a 20
34 percent reduction in carbon intensity until the department
35 demonstrates that at least one new or expanded biofuel production
36 facility has received a siting, operating, or environmental permit
37 after January 1, 2025.

38 (7) Transportation fuels exported from Washington are not subject
39 to the greenhouse gas emissions reduction requirements in this
40 section.

1 (~~(9)~~) (8) To the extent the requirements of this chapter
2 conflict with the requirements of chapter 19.112 RCW, the
3 requirements of this chapter prevail.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.535
5 RCW to read as follows:

6 (1)(a) All regulated parties and credit generators are required
7 to submit reports under RCW 70A.535.070 in a timely manner to meet
8 the entities' compliance obligations and shall comply with all
9 requirements for recordkeeping, reporting, transacting credits,
10 obtaining a carbon intensity calculation, and other provisions of
11 this chapter.

12 (b) The department may issue a corrective action order to a
13 person that does not comply with a requirement of this chapter.

14 (2) Each deficit for which a registered party does not retire a
15 corresponding credit at the end of a compliance period constitutes a
16 separate violation of this chapter unless that registered party
17 participates in the credit clearance market as required under RCW
18 70A.535.030(8). For each violation, the department may issue a
19 penalty of up to four times the maximum posted price of the most
20 recent credit clearance market.

21 (3) The department may issue a penalty for any misreporting by a
22 party that results in the claim of credits that does not meet the
23 requirements of this chapter or the failure to report a deficit. The
24 penalty issued under this subsection may be up to \$1,000 per credit
25 or deficit in violation of the requirements of this chapter. A
26 registered party may not be penalized under this subsection if any
27 misreporting in a quarterly report is corrected by the end of that
28 quarter's reporting period.

29 (4) The department may issue a penalty of up to \$10,000 per day
30 each day a registered party does not submit a report under RCW
31 70A.535.070 by the reporting deadline.

32 (5) The department may issue a penalty for credits generated in
33 exceedance of a carbon intensity standard adopted by the department
34 for that year of up to \$1,000 per credit for each illegitimate credit
35 generated as a result of the incorrect carbon intensity score.

36 (6) The department may issue a penalty of up to \$25,000 per month
37 that a regulated party is not registered with the department in
38 violation of RCW 70A.535.070.

1 (7) The department may issue to any participating electric
2 utility a penalty of up to four times the credit revenue improperly
3 spent in violation of RCW 70A.535.080 or rules adopted to implement
4 that section.

5 (8) The department may issue a penalty of up to \$50,000 or
6 \$10,000 per day for a violation of the third-party verification
7 requirements adopted by the department under RCW 70A.535.030(3)(c)
8 for as long as the registered party remains out of compliance with
9 these requirements. However, the department shall not issue a penalty
10 to a registered party for a violation of third-party verification
11 requirements that the registered party demonstrates to the department
12 was due to an error made by the third-party verifier.

13 (9) For violations other than those described in subsections (2)
14 through (8) of this section, the department may issue a penalty of up
15 to \$10,000 per day per violation for each day any registered party
16 violates the terms of this chapter or an order issued under this
17 chapter.

18 (10) An electric utility must notify its retail customers in
19 published form within three months of paying a monetary penalty under
20 this section.

21 (11) Penalties and orders issued under this section may be
22 appealed to the pollution control hearings board created in chapter
23 43.21B.RCW. Penalties collected under this chapter must be deposited
24 in the carbon emissions reduction account created in RCW 70A.65.240.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 70A.535
26 RCW to read as follows:

27 (1) The department shall publish on its website analysis and
28 forecasts of the credit markets created by this chapter, including:

29 (a) The prices of credits in Washington and the price of credits
30 as compared to other jurisdictions implementing similar clean fuels
31 policies;

32 (b) Trends in credit supply and demand;

33 (c) Activities in the credit markets, including volume of credits
34 transferred and price per credit, categorized by fuel type;

35 (d) The share of deficits generated by fuel type, and the share
36 of credits generated by fuel type; and

37 (e) Trends in in-state biofuel feedstock production types and
38 volumes.

1 (2) The department must consider the analysis in subsection (1)
2 of this section in adopting rules to implement the requirements of
3 this chapter.

4 **Sec. 4.** RCW 70A.535.010 and 2023 c 232 s 2 are each reenacted
5 and amended to read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly indicates otherwise.

8 (1) "Alternative jet fuel" means a fuel that can be blended and
9 used with conventional petroleum jet fuels without the need to modify
10 aircraft engines and existing fuel distribution infrastructure, and
11 that have a lower carbon intensity than the applicable annual carbon
12 intensity standard in Table 2 of WAC 173-424-900, as it existed on
13 July 1, 2023. Alternative jet fuel includes jet fuels derived from
14 coprocessed feedstocks at a conventional petroleum refinery.

15 (2) "Carbon dioxide equivalents" has the same meaning as defined
16 in RCW 70A.45.010.

17 (3) "Carbon intensity" means the quantity of life-cycle
18 greenhouse gas emissions, per unit of fuel energy, expressed in grams
19 of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

20 (4) "Clean fuels program" means the requirements established
21 under this chapter.

22 (5) "Cost" means an expense connected to the manufacture,
23 distribution, or other aspects of the provision of a transportation
24 fuel product.

25 (6) "Credit" means a unit of measure generated when a
26 transportation fuel with a carbon intensity that is less than the
27 applicable standard adopted by the department under RCW 70A.535.025
28 is produced, imported, or dispensed for use in Washington, such that
29 one credit is equal to one metric ton of carbon dioxide equivalents.
30 A credit may also be generated through other activities consistent
31 with this chapter.

32 (7) "Deficit" means a unit of measure generated when a
33 transportation fuel with a carbon intensity that is greater than the
34 applicable standard adopted by the department under RCW 70A.535.025
35 is produced, imported, or dispensed for use in Washington, such that
36 one deficit is equal to one metric ton of carbon dioxide equivalents.

37 (8) "Department" means the department of ecology.

38 (9) "Electric utility" means a consumer-owned utility or
39 investor-owned utility, as those terms are defined in RCW 19.29A.010.

1 (10) "Greenhouse gas" has the same meaning as defined in RCW
2 70A.45.010.

3 (11) "Military tactical vehicle" means a motor vehicle owned by
4 the United States department of defense or the United States military
5 services and that is used in combat, combat support, combat service
6 support, tactical or relief operations, or training for such
7 operations.

8 (12) "Motor vehicle" has the same meaning as defined in RCW
9 46.04.320.

10 (13) "Price" means the amount of payment or compensation provided
11 as consideration for a specified quantity of transportation fuel by a
12 consumer or end user of the transportation fuel.

13 (14) "Registered party" means a regulated party or credit
14 generator registered under RCW 70A.535.070.

15 (15) "Regulated party" means a producer or importer of any amount
16 of a transportation fuel that is ineligible to generate credits under
17 this chapter.

18 ~~((15))~~ (16)(a) "Tactical support equipment" means equipment
19 using a portable engine, including turbines, that meets military
20 specifications, owned by the United States military services or its
21 allies, and that is used in combat, combat support, combat service
22 support, tactical or relief operations, or training for such
23 operations.

24 (b) "Tactical support equipment" includes, but is not limited to,
25 engines associated with portable generators, aircraft start carts,
26 heaters, and lighting carts.

27 ~~((16))~~ (17) "Transportation fuel" means electricity and any
28 liquid or gaseous fuel sold, supplied, offered for sale, or used for
29 the propulsion of a motor vehicle or that is intended for use for
30 transportation purposes.

31 **Sec. 5.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
32 2024 c 339 s 16 are each reenacted and amended to read as follows:

33 (1) The hearings board shall only have jurisdiction to hear and
34 decide appeals from the following decisions of the department, the
35 director, local conservation districts, the air pollution control
36 boards or authorities as established pursuant to chapter 70A.15 RCW,
37 local health departments, the department of natural resources, the
38 department of fish and wildlife, the parks and recreation commission,
39 and authorized public entities described in chapter 79.100 RCW:

1 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
2 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,
3 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,
4 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,
5 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
6 70A.65.200, 70A.455.090, section 2 of this act, 70A.550.030,
7 70A.555.110, 70A.560.020, 70A.565.030, 76.09.170, 77.55.440,
8 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
9 90.56.330, and 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
11 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
12 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
13 70A.245.020, 70A.65.200, section 2 of this act, 70A.505.100,
14 70A.555.110, 70A.560.020, 70A.565.030, 86.16.020, 88.46.070,
15 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and
16 90.64.040.

17 (c) Except as provided in RCW 90.03.210(2), the issuance,
18 modification, or termination of any permit, certificate, or license
19 by the department or any air authority in the exercise of its
20 jurisdiction, including the issuance or termination of a waste
21 disposal permit, the denial of an application for a waste disposal
22 permit, the modification of the conditions or the terms of a waste
23 disposal permit, a decision to approve or deny a solid waste
24 management plan under RCW 70A.205.055, approval or denial of an
25 application for a beneficial use determination under RCW 70A.205.260,
26 an application for a change under RCW 90.03.383, or a permit to
27 distribute reclaimed water under RCW 90.46.220.

28 (d) Decisions of local health departments regarding the granting
29 or denial of solid waste permits pursuant to chapter 70A.205 RCW,
30 including appeals by the department as provided in RCW 70A.205.130.

31 (e) Decisions of local health departments regarding the issuance
32 and enforcement of permits to use or dispose of biosolids under RCW
33 70A.226.090.

34 (f) Decisions of the department regarding waste-derived
35 fertilizer or micronutrient fertilizer under RCW 15.54.820.

36 (g) Decisions of local conservation districts related to the
37 denial of approval or denial of certification of a dairy nutrient
38 management plan; conditions contained in a plan; application of any
39 dairy nutrient management practices, standards, methods, and
40 technologies to a particular dairy farm; and failure to adhere to the

1 plan review and approval timelines in RCW 90.64.026 as provided in
2 RCW 90.64.028.

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

6 (i) Decisions of the department of natural resources, the
7 department of fish and wildlife, and the department that are
8 reviewable under chapter 76.09 RCW, and the department of natural
9 resources' appeals of county, city, or town objections under RCW
10 76.09.050(7).

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

13 (k) Decisions of the department of fish and wildlife to issue,
14 deny, condition, or modify a hydraulic project approval permit under
15 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
16 comply, to issue a civil penalty, or to issue a notice of intent to
17 disapprove applications.

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

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

24 (n) Decisions of the department of ecology that are appealable
25 under RCW 70A.245.020 to set recycled minimum postconsumer content
26 for covered products or to temporarily exclude types of covered
27 products in plastic containers from minimum postconsumer recycled
28 content requirements.

29 (o) Orders by the department of ecology under RCW 70A.455.080.

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

32 (a) Hearings required by law to be conducted by the shorelines
33 hearings board pursuant to chapter 90.58 RCW, except where appeals to
34 the pollution control hearings board and appeals to the shorelines
35 hearings board have been consolidated pursuant to RCW 43.21B.340.

36 (b) Hearings conducted by the department pursuant to RCW
37 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
38 70A.15.3110, and 90.44.180.

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

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

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

6 **Sec. 6.** RCW 70A.15.3150 and 2023 c 470 s 1017 are each amended
7 to read as follows:

8 (1) Any person who knowingly violates any of the provisions of
9 this chapter, chapter 70A.25(~~(r)~~) or 70A.60(~~(, or 70A.535)~~) RCW, or
10 any ordinance, resolution, or regulation in force pursuant thereto is
11 guilty of a gross misdemeanor and upon conviction thereof shall be
12 punished by a fine of not more than (~~ten thousand dollars~~) \$10,000,
13 or by imprisonment in the county jail for up to (~~three hundred~~
14 ~~sixty-four~~) 364 days, or by both for each separate violation.

15 (2) Any person who negligently releases into the ambient air any
16 substance listed by the department of ecology as a hazardous air
17 pollutant, other than in compliance with the terms of an applicable
18 permit or emission limit, and who at the time negligently places
19 another person in imminent danger of death or substantial bodily harm
20 is guilty of a gross misdemeanor and shall, upon conviction, be
21 punished by a fine of not more than (~~ten thousand dollars~~) \$10,000,
22 or by imprisonment for up to (~~three hundred sixty-four~~) 364 days,
23 or both.

24 (3) Any person who knowingly releases into the ambient air any
25 substance listed by the department of ecology as a hazardous air
26 pollutant, other than in compliance with the terms of an applicable
27 permit or emission limit, and who knows at the time that he or she
28 thereby places another person in imminent danger of death or
29 substantial bodily harm, is guilty of a class C felony and shall,
30 upon conviction, be punished by a fine of not less than (~~fifty~~
31 ~~thousand dollars~~) \$50,000, or by imprisonment for not more than five
32 years, or both.

33 (4) Any person who knowingly fails to disclose a potential
34 conflict of interest under RCW 70A.15.2000 is guilty of a gross
35 misdemeanor, and upon conviction thereof shall be punished by a fine
36 of not more than (~~five thousand dollars~~) \$5,000.

37 **Sec. 7.** RCW 70A.15.3160 and 2022 c 179 s 15 are each amended to
38 read as follows:

1 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and
2 43.05.150, and in addition to or as an alternate to any other penalty
3 provided by law, any person who violates any of the provisions of
4 this chapter, chapter 70A.25, 70A.60, 70A.450, (~~70A.535,~~) or
5 70A.540 RCW, RCW 76.04.205, or any of the rules in force under such
6 chapters or section may incur a civil penalty in an amount not to
7 exceed (~~ten thousand dollars~~) \$10,000 per day for each violation.
8 Each such violation shall be a separate and distinct offense, and in
9 case of a continuing violation, each day's continuance shall be a
10 separate and distinct violation. Enforcement actions related to
11 violations of RCW 76.04.205 must be consistent with the provisions of
12 RCW 76.04.205.

13 (b) Any person who fails to take action as specified by an order
14 issued pursuant to this chapter shall be liable for a civil penalty
15 of not more than (~~ten thousand dollars~~) \$10,000 for each day of
16 continued noncompliance.

17 (2) (a) Penalties incurred but not paid shall accrue interest,
18 beginning on the ninety-first day following the date that the penalty
19 becomes due and payable, at the highest rate allowed by RCW 19.52.020
20 on the date that the penalty becomes due and payable. If violations
21 or penalties are appealed, interest shall not begin to accrue until
22 the thirty-first day following final resolution of the appeal.

23 (b) The maximum penalty amounts established in this section may
24 be increased annually to account for inflation as determined by the
25 state office of the economic and revenue forecast council.

26 (3) Each act of commission or omission which procures, aids or
27 abets in the violation shall be considered a violation under the
28 provisions of this section and subject to the same penalty. The
29 penalties provided in this section shall be imposed pursuant to RCW
30 43.21B.300.

31 (4) (a) Except as provided in (b) of this subsection, all
32 penalties recovered under this section by the department or the
33 department of natural resources shall be paid into the state treasury
34 and credited to the air pollution control account established in RCW
35 70A.15.1010 or, if recovered by the authority, shall be paid into the
36 treasury of the authority and credited to its funds. If a prior
37 penalty for the same violation has been paid to a local authority,
38 the penalty imposed by the department under subsection (1) of this
39 section shall be reduced by the amount of the payment.

1 (b) All penalties recovered for violations of chapter 70A.60 RCW
2 must be paid into the state treasury and credited to the refrigerant
3 emission management account created in RCW 70A.60.050.

4 (5) To secure the penalty incurred under this section, the state
5 or the authority shall have a lien on any vessel used or operated in
6 violation of this chapter which shall be enforced as provided in RCW
7 60.36.050.

8 (6) Public or private entities that are recipients or potential
9 recipients of department grants, whether for air quality related
10 activities or not, may have such grants rescinded or withheld by the
11 department for failure to comply with provisions of this chapter.

12 (7) In addition to other penalties provided by this chapter,
13 persons knowingly underreporting emissions or other information used
14 to set fees, or persons required to pay emission or permit fees who
15 are more than ninety days late with such payments may be subject to a
16 penalty equal to three times the amount of the original fee owed.

17 (8) The department shall develop rules for excusing excess
18 emissions from enforcement action if such excess emissions are
19 unavoidable. The rules shall specify the criteria and procedures for
20 the department and local air authorities to determine whether a
21 period of excess emissions is excusable in accordance with the state
22 implementation plan.

23 **Sec. 8.** RCW 70A.535.130 and 2021 c 317 s 14 are each amended to
24 read as follows:

25 (1) The department may require that persons that are required or
26 elect to register or report under this chapter pay a fee. If the
27 department elects to require program participants to pay a fee, the
28 department must, after an opportunity for public review and comment,
29 adopt rules to establish a process to determine the payment schedule
30 and the amount of the fee charged. The amount of the fee must be set
31 so as to equal but not exceed the projected direct and indirect costs
32 to the department for developing and implementing the program and the
33 projected direct and indirect costs to the department of commerce to
34 carry out its responsibilities under RCW 70A.535.100. The department
35 and the department of commerce must prepare a biennial workload
36 analysis and provide an opportunity for public review of and comment
37 on the workload analysis. The department shall enter into an
38 interagency agreement with the department of commerce to implement
39 this section.

1 (2) The clean fuels program account is created in the state
2 treasury. All receipts from fees (~~and penalties~~) received under the
3 program created in this chapter must be deposited into the account.
4 Moneys in the account may be spent only after appropriation. The
5 department may only use expenditures from the account for carrying
6 out the program created in this chapter.

7 (3) All rule making authorized under chapter 317, Laws of 2021
8 must be conducted according to the standards for significant
9 legislative rules provided in RCW 34.05.328.

10 NEW SECTION. **Sec. 9.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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