

**E3SHB 1091** - CONF REPT  
By Conference Committee

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid  
4 innovations in low carbon transportation technologies, including  
5 electric vehicles and clean transportation fuels, are at the  
6 threshold of widespread commercial deployment. In order to help  
7 prompt the use of clean fuels, other states have successfully  
8 implemented programs that reduce the carbon intensity of their  
9 transportation fuels. California and Oregon have both implemented low  
10 carbon fuel standards that are similar to the program created in this  
11 act, and both states have experienced biofuel sector growth and have  
12 successfully sited large biofuel projects that had originally been  
13 planned for Washington. Washington state has extensively studied the  
14 potential impact of a clean fuels program, and most projections show  
15 that a low carbon fuel standard would decrease greenhouse gas and  
16 conventional air pollutant emissions, while positively impacting the  
17 state's economy.

18 (2) The legislature further finds that the health and welfare of  
19 the people of the state of Washington is threatened by the prospect  
20 of crumbling or swamped coastlines, rising water, and more intense  
21 forest fires caused by higher temperatures and related droughts, all  
22 of which are intensified and made more frequent by the volume of  
23 greenhouse gas emissions. As of 2017, the transportation sector  
24 contributes 45 percent of Washington's greenhouse gas emissions, and  
25 the legislature's interest in the life cycle of the fuels used in the  
26 state arises from a concern for the effects of the production and use  
27 of these fuels on Washington's environment and public health,  
28 including its air quality, snowpack, and coastline.

29 (3) Therefore, it is the intent of the legislature to support the  
30 deployment of clean transportation fuel technologies through a  
31 carefully designed program that reduces the carbon intensity of fuel  
32 used in Washington, in order to:

1 (a) Reduce levels of conventional air pollutants from diesel and  
2 gasoline that are harmful to public health;

3 (b) Reduce greenhouse gas emissions associated with  
4 transportation fuels, which are the state's largest source of  
5 greenhouse gas emissions; and

6 (c) Create jobs and spur economic development based on innovative  
7 clean fuel technologies.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply  
9 throughout this chapter unless the context clearly indicates  
10 otherwise.

11 (1) "Carbon dioxide equivalents" has the same meaning as defined  
12 in RCW 70A.45.010.

13 (2) "Carbon intensity" means the quantity of life-cycle  
14 greenhouse gas emissions, per unit of fuel energy, expressed in grams  
15 of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ).

16 (3) "Clean fuels program" means the requirements established  
17 under this chapter.

18 (4) "Cost" means an expense connected to the manufacture,  
19 distribution, or other aspects of the provision of a transportation  
20 fuel product.

21 (5) "Credit" means a unit of measure generated when a  
22 transportation fuel with a carbon intensity that is less than the  
23 applicable standard adopted by the department under section 3 of this  
24 act is produced, imported, or dispensed for use in Washington, such  
25 that one credit is equal to one metric ton of carbon dioxide  
26 equivalents. A credit may also be generated through other activities  
27 consistent with this chapter.

28 (6) "Deficit" means a unit of measure generated when a  
29 transportation fuel with a carbon intensity that is greater than the  
30 applicable standard adopted by the department under section 3 of this  
31 act is produced, imported, or dispensed for use in Washington, such  
32 that one deficit is equal to one metric ton of carbon dioxide  
33 equivalents.

34 (7) "Department" means the department of ecology.

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

37 (9) "Greenhouse gas" has the same meaning as defined in RCW  
38 70A.45.010.

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

6 (11) "Motor vehicle" has the same meaning as defined in RCW  
7 46.04.320.

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

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

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

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

23 (15) "Transportation fuel" means electricity and any liquid or  
24 gaseous fuel sold, supplied, offered for sale, or used for the  
25 propulsion of a motor vehicle or that is intended for use for  
26 transportation purposes.

27 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that  
28 establish standards that reduce carbon intensity in transportation  
29 fuels used in Washington. The standards established by the rules must  
30 be based on the carbon intensity of gasoline and gasoline substitutes  
31 and the carbon intensity of diesel and diesel substitutes. The  
32 standards:

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

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

1 (c) Must assign a compliance obligation to fuels whose carbon  
2 intensity exceeds the standards adopted by the department, consistent  
3 with the requirements of section 4 of this act; and

4 (d) Must assign credits that can be used to satisfy or offset  
5 compliance obligations to fuels whose carbon intensity is below the  
6 standards adopted by the department and that elect to participate in  
7 the program, consistent with the requirements of section 4 of this  
8 act.

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

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

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

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

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

20 (3) The department shall, throughout a compliance period,  
21 regularly monitor the availability of fuels needed for compliance  
22 with the clean fuels program.

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

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

36 (5)(a) Except as provided in this section, the rules adopted  
37 under this section must reduce the greenhouse gas emissions  
38 attributable to each unit of the fuels to 20 percent below 2017  
39 levels by 2038 based on the following schedule:

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

1 (ii) No more than an additional one percent each year beginning  
2 in 2025 through 2027;

3 (iii) No more than an additional 1.5 percent each year beginning  
4 in 2028 through 2031; and

5 (iv) No change in 2032 and 2033.

6 (b) The rules must establish a start date for the clean fuels  
7 program of no later than January 1, 2023, except as provided in  
8 subsection (8) of this section.

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

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

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

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

33 (a) Joint legislative audit and review committee report required  
34 in section 15 of this act has been completed; and

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

39 (8)(a) In order to coordinate and synchronize the clean fuels  
40 program with other transportation-related investments, the department

1 may not assign compliance obligations or allow the generation of  
2 credits under this chapter until a separate additive transportation  
3 revenue act becomes law, at which time the department of licensing  
4 must provide written notice to the chief clerk of the house of  
5 representatives, the secretary of the senate, and the office of the  
6 code reviser.

7 (b) For the purposes of this subsection, "additive transportation  
8 revenue act" means an act enacted after April 1, 2021, in which the  
9 state fuel tax under RCW 82.38.030 is increased by an additional and  
10 cumulative tax rate of at least five cents per gallon of fuel.

11 (9) Transportation fuels exported from Washington are not subject  
12 to the greenhouse gas emissions reduction requirements in this  
13 section.

14 (10) To the extent the requirements of this chapter conflict with  
15 the requirements of chapter 19.112 RCW, the requirements of this  
16 chapter prevail.

17 NEW SECTION. **Sec. 4.** The rules adopted by the department to  
18 achieve the greenhouse gas emissions reductions per unit of fuel  
19 energy specified in section 3 of this act must include, but are not  
20 limited to, the following:

21 (1) Standards for greenhouse gas emissions attributable to the  
22 transportation fuels throughout their life cycles, including but not  
23 limited to emissions from the production, storage, transportation,  
24 and combustion of transportation fuels and from changes in land use  
25 associated with transportation fuels and any permanent greenhouse gas  
26 sequestration activities.

27 (a) The rules adopted by the department under this subsection (1)  
28 may:

29 (i) Include provisions to address the efficiency of a fuel as  
30 used in a powertrain as compared to a reference fuel;

31 (ii) Consider carbon intensity calculations for transportation  
32 fuels developed by national laboratories or used by similar programs  
33 in other states; and

34 (iii) Consider changes in land use and any permanent greenhouse  
35 gas sequestration activities associated with the production of any  
36 type of transportation fuel.

37 (b) The rules adopted by the department under this subsection (1)  
38 must:

1 (i) Neutrally consider the life-cycle emissions associated with  
2 transportation fuels with respect to the political jurisdiction in  
3 which the fuels originated and may not discriminate against fuels on  
4 the basis of having originated in another state or jurisdiction.  
5 Nothing in this subsection may be construed to prohibit inclusion or  
6 assessment of emissions related to fuel production, storage,  
7 transportation, or combustion or associated changes in land use in  
8 determining the carbon intensity of a fuel;

9 (ii) Measure greenhouse gas emissions associated with electricity  
10 and hydrogen based on a mix of generation resources specific to each  
11 electric utility participating in the clean fuels program. The  
12 department may apply an asset-controlling supplier emission factor  
13 certified or approved by a similar program to reduce the greenhouse  
14 gas emissions associated with transportation fuels in another state;

15 (iii) Include mechanisms for certifying electricity that has a  
16 carbon intensity of zero. This electricity must include, at minimum,  
17 electricity:

18 (A) For which a renewable energy credit or other environmental  
19 attribute has been retired or used; and

20 (B) Produced using a zero emission resource including, but not  
21 limited to, solar, wind, geothermal, or the industrial combustion of  
22 biomass consistent with RCW 70A.45.020(3), that is directly supplied  
23 as a transportation fuel by the generator of the electricity to a  
24 metered customer for electric vehicle charging or refueling;

25 (iv) Allow the generation of credits associated with electricity  
26 with a carbon intensity lower than that of standard adopted by the  
27 department. The department may not require electricity to have a  
28 carbon intensity of zero in order to be eligible to generate credits  
29 from use as a transportation fuel; and

30 (v) Include procedures for setting and adjusting the amounts of  
31 greenhouse gas emissions per unit of fuel energy that is assigned to  
32 transportation fuels under this subsection.

33 (c) If the department determines that it is necessary for  
34 purposes of accurately measuring greenhouse gas emissions associated  
35 with transportation fuels, the department may require transportation  
36 fuel suppliers to submit data or information to be used for purposes  
37 of calculating greenhouse gas emissions that is different from or  
38 additional to the greenhouse gas emissions data reported under RCW  
39 70A.15.2200(5)(a)(iii).

1 (d) If the department determines that it is necessary for  
2 purposes of accurately measuring greenhouse gas emissions associated  
3 with electricity supplied to retail customers or hydrogen production  
4 facilities by an electric utility, the department may require  
5 electric utilities participating in the clean fuels program to submit  
6 data or information to be used for purposes of calculating greenhouse  
7 gas emissions that is different from or additional to the fuel mix  
8 disclosure information submitted under chapter 19.29A RCW. To the  
9 extent practicable, rules adopted by the department may allow data  
10 requested of utilities to be submitted in a form and manner  
11 consistent with other required state or federal data submissions;

12 (2) Provisions allowing for the achievement of limits on the  
13 greenhouse gas emissions intensity of transportation fuels in section  
14 3 of this act to be achieved by any combination of credit generating  
15 activities capable of meeting such standards. Where such provisions  
16 would not produce results counter to the emission reduction goals of  
17 the program or prove administratively burdensome for the department,  
18 the rules should provide each participant in the clean fuels program  
19 with the opportunity to demonstrate appropriate carbon intensity  
20 values taking into account both emissions from production facilities  
21 and elsewhere in the production cycle, including changes in land use  
22 and permanent greenhouse gas sequestration activities;

23 (3) (a) Methods for assigning compliance obligations and methods  
24 for tracking tradable credits. The department may assign the  
25 generation of a credit when a fuel with associated life-cycle  
26 greenhouse gas emissions that are lower than the applicable per-unit  
27 standard adopted by the department under section 3 of this act is  
28 produced, imported, or dispensed for use in Washington, or when  
29 specified activities are undertaken that support the reduction of  
30 greenhouse gas emissions associated with transportation in  
31 Washington;

32 (b) Mechanisms that allow credits to be traded and to be banked  
33 for future compliance periods; and

34 (c) Procedures for verifying the validity of credits and deficits  
35 generated under the clean fuels program;

36 (4) Mechanisms to elect to participate in the clean fuels program  
37 for persons associated with the supply chains of transportation fuels  
38 that are eligible to generate credits consistent with subsection (3)  
39 of this section, including producers, importers, distributors, users,  
40 or retailers of such fuels, and electric vehicle manufacturers;



1 (5) Mechanisms for persons associated with the supply chains of  
2 transportation fuels that are used for purposes that are exempt from  
3 the clean fuels program compliance obligations including, but not  
4 limited to, fuels used by aircraft, vessels, railroad locomotives,  
5 and other exempt fuels specified in section 5 of this act, to elect  
6 to participate in the clean fuels program by earning credits for the  
7 production, import, distribution, use, or retail of exempt fuels with  
8 associated life-cycle greenhouse gas emissions lower than the per-  
9 unit standard established in section 3 of this act;

10 (6) Mechanisms that allow for the assignment of credits to an  
11 electric utility for electricity used within its utility service  
12 area, at minimum, for residential electric vehicle charging or  
13 fueling;

14 (7) Cost containment mechanisms.

15 (a) Cost containment mechanisms must include the credit clearance  
16 market specified in subsection (8) of this section and may also  
17 include, but are not limited to:

18 (i) Procedures similar to the credit clearance market required in  
19 subsection (8) of this section that provide a means of compliance  
20 with the clean fuels program requirements in the event that a  
21 regulated person has not been able to acquire sufficient volumes of  
22 credits at the end of a compliance period; or

23 (ii) Similar procedures that ensure that credit prices do not  
24 significantly exceed credit prices in other jurisdictions that have  
25 adopted similar programs to reduce the carbon intensity of  
26 transportation fuels.

27 (b) Any cost containment mechanisms must be designed to provide  
28 financial disincentive for regulated persons to rely on the cost  
29 containment mechanism for purposes of program compliance instead of  
30 seeking to generate or acquire sufficient credits under the program.

31 (c) The department shall harmonize the program's cost containment  
32 mechanisms with the cost containment rules in the states specified in  
33 section 7(1) of this act.

34 (d) The department shall consider mechanisms such as the  
35 establishment of a credit price cap or other alternative cost  
36 containment measures if deemed necessary to harmonize market credit  
37 costs with those in the states specified in section 7(1) of this act;

38 (8) (a) (i) A credit clearance market for any compliance period in  
39 which at least one regulated party reports that the regulated party  
40 has a net deficit balance at the end of the compliance period, after

1 retirement of all credits held by the regulated party, that is  
2 greater than a small deficit. A regulated party described by this  
3 subsection is required to participate in the credit clearance market.

4 (ii) If a regulated party has a small deficit at the end of a  
5 compliance period, the regulated party shall notify the department  
6 that it will achieve compliance with the clean fuels program during  
7 the compliance period by either: (A) Participating in a credit  
8 clearance market; or (B) carrying forward the small deficit.

9 (b) For the purposes of administering a credit clearance market  
10 required by this section, the department shall:

11 (i) Allow any regulated party, credit generator, or credit  
12 aggregator that holds excess credits at the end of the compliance  
13 period to voluntarily participate in the credit clearance market as a  
14 seller by pledging a specified number of credits for sale in the  
15 market;

16 (ii) Require each regulated party participating in the credit  
17 clearance market as purchaser of credits to:

18 (A) Have retired all credits in the regulated party's possession  
19 prior to participating in the credit clearance market; and

20 (B) Purchase the specified number of the total pledged credits  
21 that the department has determined are that regulated party's pro  
22 rata share of the pledged credits;

23 (iii) Require all sellers to:

24 (A) Agree to sell pledged credits at a price no higher than a  
25 maximum price for credits;

26 (B) Accept all offers to purchase pledged credits at the maximum  
27 price for credits; and

28 (C) Agree to withhold any pledged credits from sale in any  
29 transaction outside of the credit clearance market until the end of  
30 the credit clearance market, or if no credit clearance market is held  
31 in a given year, then until the date on which the department  
32 announces it will not be held.

33 (c) (i) The department shall set a maximum price for credits in a  
34 credit clearance market, consistent with states that have adopted  
35 similar clean fuels programs, not to exceed \$200 in 2018 dollars for  
36 2023.

37 (ii) For 2024 and subsequent years, the maximum price may exceed  
38 \$200 in 2018 dollars, but only to the extent that a greater maximum  
39 price for credits is necessary to annually adjust for inflation,  
40 beginning on January 1, 2024, pursuant to the increase, if any, from

1 the preceding calendar year in the consumer price index for all urban  
2 consumers, west region (all items), as published by the bureau of  
3 labor statistics of the United States department of labor.

4 (d) A regulated party that has a net deficit balance after the  
5 close of a credit clearance market:

6 (i) Must carry over the remaining deficits into the next  
7 compliance period; and

8 (ii) May not be subject to interest greater than five percent,  
9 penalties, or assertions of noncompliance that accrue based on the  
10 carryover of deficits under this subsection.

11 (e) If a regulated party has been required under (a) of this  
12 subsection to participate as a purchaser in two consecutive credit  
13 clearance markets and continues to have a net deficit balance after  
14 the close of the second consecutive credit clearance market, the  
15 department shall complete, no later than two months after the close  
16 of the second credit clearance market, an analysis of the root cause  
17 of an inability of the regulated party to retire the remaining  
18 deficits. The department may recommend and implement any remedy that  
19 the department determines is necessary to address the root cause  
20 identified in the analysis including, but not limited to, issuing a  
21 deferral, provided that the remedy implemented does not:

22 (i) Require a regulated party to purchase credits for an amount  
23 that exceeds the maximum price for credits in the most recent credit  
24 clearance market; or

25 (ii) Compel a person to sell credits.

26 (f) If credits sold in a credit clearance market are subsequently  
27 invalidated as a result of fraud or any other form of noncompliance  
28 on the part of the generator of the credit, the department may not  
29 pursue civil penalties against, or require credit replacement by, the  
30 regulated party that purchased the credits unless the regulated party  
31 was a party to the fraud or other form of noncompliance.

32 (g) The department may not disclose the deficit balances or pro  
33 rata share purchase requirements of a regulated party that  
34 participates in the credit clearance market;

35 (9) Authority for the department to designate an entity to  
36 aggregate and use unclaimed credits associated with persons that  
37 elect not to participate in the clean fuels program under subsection  
38 (4) of this section.

1        NEW SECTION.    **Sec. 5.**    (1) The rules adopted under sections 3 and  
2 4 of this act must include exemptions for, at minimum, the following  
3 transportation fuels:

4        (a) Fuels used in volumes below thresholds adopted by the  
5 department;

6        (b) Fuels used for the propulsion of all aircraft, vessels, and  
7 railroad locomotives; and

8        (c) Fuels used for the operation of military tactical vehicles  
9 and tactical support equipment.

10       (2) (a) The rules adopted under sections 3 and 4 of this act must  
11 exempt the following transportation fuels from greenhouse gas  
12 emission intensity reduction requirements until January 1, 2028:

13       (i) Special fuel used off-road in vehicles used primarily to  
14 transport logs;

15       (ii) Dyed special fuel used in vehicles that are not designed  
16 primarily to transport persons or property, that are not designed to  
17 be primarily operated on highways, and that are used primarily for  
18 construction work including, but not limited to, mining and timber  
19 harvest operations; and

20       (iii) Dyed special fuel used for agricultural purposes exempt  
21 from chapter 82.38 RCW.

22       (b) Prior to January 1, 2028, fuels identified in this subsection  
23 (2) are eligible to generate credits, consistent with subsection (5)  
24 of this section. Beginning January 1, 2028, the fuels identified in  
25 this subsection (2) are subject to the greenhouse gas emission  
26 intensity reduction requirements applicable to transportation fuels  
27 specified in section 3 of this act.

28       (3) The department may adopt rules to specify the standards for  
29 persons to qualify for the exemptions provided in this section. The  
30 department may implement the exemptions under subsection (2) of this  
31 section to align with the implementation of exemptions for similar  
32 fuels exempt from chapter 82.38 RCW.

33       (4) The rules adopted under sections 3 and 4 of this act may  
34 include exemptions in addition to those described in subsections (1)  
35 and (2) of this section, but only if such exemptions are necessary,  
36 with respect to the relationship between the program and similar  
37 greenhouse gas emissions requirements or low carbon fuel standards,  
38 in order to avoid:

39       (a) Mismatched incentives across programs;

40       (b) Fuel shifting between markets; or

1 (c) Other results that are counter to the intent of this chapter.

2 (5) Nothing in this chapter precludes the department from  
3 adopting rules under sections 3 and 4 of this act that allow the  
4 generation of credits associated with electric or alternative  
5 transportation infrastructure that existed prior to the effective  
6 date of this section or to the start date of program requirements.  
7 The department must apply the same baseline years to credits  
8 associated with electric or alternative transportation infrastructure  
9 that apply to gasoline and diesel liquid fuels in any market-based  
10 program enacted by the legislature that establishes a cap on  
11 greenhouse gas emissions.

12 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and  
13 4 of this act may allow the generation of credits from activities  
14 that support the reduction of greenhouse gas emissions associated  
15 with transportation in Washington, including but not limited to:

16 (a) Carbon capture and sequestration projects, including but not  
17 limited to:

18 (i) Innovative crude oil production projects that include carbon  
19 capture and sequestration;

20 (ii) Project-based refinery greenhouse gas mitigation including,  
21 but not limited to, process improvements, renewable hydrogen use, and  
22 carbon capture and sequestration; or

23 (iii) Direct air capture projects;

24 (b) Investments and activities that support deployment of  
25 machinery and equipment used to produce gaseous and liquid fuels from  
26 nonfossil feedstocks, and derivatives thereof;

27 (c) The fueling of battery or fuel cell electric vehicles by a  
28 commercial, nonprofit, or public entity that is not an electric  
29 utility, which may include, but is not limited to, the fueling of  
30 vehicles using electricity certified by the department to have a  
31 carbon intensity of zero; and

32 (d) The use of smart vehicle charging technology that results in  
33 the fueling of an electric vehicle during times when the carbon  
34 intensity of grid electricity is comparatively low.

35 (2) (a) The rules adopted under sections 3 and 4 of this act must  
36 allow the generation of credits based on capacity for zero emission  
37 vehicle refueling infrastructure, including DC fast charging  
38 infrastructure and hydrogen refueling infrastructure.

1 (b) The rules adopted under sections 3 and 4 of this act may  
2 allow the generation of credits from the provision of low carbon fuel  
3 infrastructure not specified in (a) of this subsection.

4 (3) The rules adopted under sections 3 and 4 of this act must  
5 allow the generation of credits from state transportation investments  
6 funded in an omnibus transportation appropriations act for activities  
7 and projects that reduce greenhouse gas emissions and decarbonize the  
8 transportation sector. These include, but are not limited to: (a)  
9 Electrical grid and hydrogen fueling infrastructure investments; (b)  
10 ferry operating and capital investments; (c) electrification of the  
11 state ferry fleet; (d) alternative fuel vehicle rebate programs; (e)  
12 transit grants; (f) infrastructure and other costs associated with  
13 the adoption of alternative fuel use by transit agencies; (g) bike  
14 and pedestrian grant programs and other activities; (h) complete  
15 streets and safe walking grants and allocations; (i) rail funding;  
16 and (j) multimodal investments.

17 (4) The rules adopted by the department may establish limits for  
18 the number of credits that may be earned each year by persons  
19 participating in the program for some or all of the activities  
20 specified in subsections (1) and (2) of this section. The department  
21 must limit the number of credits that may be earned each year under  
22 subsection (3) of this section to 10 percent of the total program  
23 credits. Any limits established under this subsection must take into  
24 consideration the return on investment required in order for an  
25 activity specified in subsection (2) of this section to be  
26 financially viable.

27 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in  
28 this chapter, the department shall seek to adopt rules that are  
29 harmonized with the regulatory standards, exemptions, reporting  
30 obligations, and other clean fuels program compliance requirements  
31 and methods for credit generation of other states that:

32 (a) Have adopted low carbon fuel standards or similar greenhouse  
33 gas emissions requirements applicable specifically to transportation  
34 fuels; and

35 (b)(i) Supply, or have the potential to supply, significant  
36 quantities of transportation fuel to Washington markets; or

37 (ii) To which Washington supplies, or has the potential to  
38 supply, significant quantities of transportation fuel.

1 (2) The department must establish and periodically consult a  
2 stakeholder advisory panel, including representatives of forestland  
3 and agricultural landowners, for purposes of soliciting input on how  
4 to best incentivize and allot credits for the sequestration of  
5 greenhouse gases through activities on agricultural and forestlands  
6 in a manner that is consistent with the goals and requirements of  
7 this chapter.

8 (3) The department must conduct a biennial review of innovative  
9 technologies and pathways that reduce carbon and increase credit  
10 generation opportunities and must modify rules or guidance as needed  
11 to maintain stable credit markets.

12 (4) In any reports to the legislature under section 10 of this  
13 act, on the department's website, or in other public documents or  
14 communications that refer to assumed public health benefits  
15 associated with the program created in this chapter, the department  
16 must distinguish between public health benefits from small  
17 particulate matter and other conventional pollutant reductions  
18 achieved primarily as a result of vehicle emission standards  
19 established under chapter 70A.30 RCW, and the incremental benefits to  
20 air pollution attributable to the program created under this chapter.

21 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any  
22 amount of a transportation fuel that is ineligible to generate  
23 credits consistent with the requirements of section 4(3) of this act  
24 must register with the department.

25 (b) Electric vehicle manufacturers and producers, importers,  
26 distributors, users, and retailers of transportation fuels that are  
27 eligible to generate credits consistent with section 4(3) of this act  
28 must register with the department if they elect to participate in the  
29 clean fuels program.

30 (c) Other persons must register with the department to generate  
31 credits from other activities that support the reduction of  
32 greenhouse gas emissions associated with transportation in  
33 Washington.

34 (2) Each transaction transferring ownership of transportation  
35 fuels for which clean fuels program participation is mandated must be  
36 accompanied by documentation, in a format approved by the department,  
37 that assigns the clean fuels program compliance responsibility  
38 associated with the fuels, including the assignment of associated  
39 credits. The department may also require documentation assigning

1 clean fuels program compliance responsibility associated with fuels  
2 for which program participation has been elected.

3 (3) The department may adopt rules requiring the periodic  
4 reporting of information to the department by persons associated with  
5 the supply chains of transportation fuels participating in the clean  
6 fuels program. To the extent practicable, the rules must establish  
7 reporting procedures and timelines that are consistent with similar  
8 programs in other states that reduce the greenhouse gas emission  
9 intensity of transportation fuel and with procedures and timelines of  
10 state programs requiring similar information to be reported by  
11 regulated parties, including electric utilities.

12 (4) RCW 70A.15.2510 applies to records or information submitted  
13 to the department under this chapter.

14 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues  
15 generated by an electric utility from credits earned from the  
16 electricity supplied to retail customers by an electric utility under  
17 the clean fuels program must be expended by the electric utility on  
18 transportation electrification projects, which may include projects  
19 to support the production and provision of hydrogen and other gaseous  
20 fuels produced from nonfossil feedstocks, and derivatives thereof as  
21 a transportation fuel.

22 (b) Sixty percent of the revenues described in (a) of this  
23 subsection, or 30 percent of the revenues generated by an electric  
24 utility from credits earned from the electricity supplied to retail  
25 customers by an electric utility under the clean fuels program, must  
26 be expended by the electric utility on transportation electrification  
27 projects, which may include projects to support the production and  
28 provision of hydrogen and other gaseous fuels produced from nonfossil  
29 feedstocks, and derivatives thereof as a transportation fuel, located  
30 within or directly benefiting a federally designated nonattainment or  
31 maintenance area, a federally designated nonattainment or maintenance  
32 area that existed as of January 1, 2021, a disproportionately  
33 impacted community identified by the department of health, or an area  
34 designated by the department as being at risk of nonattainment, if  
35 such a nonattainment or maintenance area or disproportionately  
36 impacted community is within the service area of the utility.

37 (2)(a) Each electric utility must spend 50 percent of revenues  
38 not subject to the requirements of subsection (1) of this section on  
39 one or more transportation electrification programs or projects it



1 selects from a list of types of programs and projects jointly  
2 developed by the department and the Washington state department of  
3 transportation. The department and the Washington state department of  
4 transportation must develop the list based on those with the highest  
5 impact on reducing greenhouse gas emissions and decarbonizing the  
6 transportation sector. The types of transportation electrification  
7 projects or programs placed on the list must include, but are not  
8 limited to:

9 (i) Provision of new or used zero emissions vehicles at no cost  
10 or at a discount to nonprofit service providers, transit agencies, or  
11 public fleets for the purpose of providing transportation services  
12 for low-income or vulnerable populations or to reduce transportation  
13 costs for the nonprofits, transit agencies, or public fleets serving  
14 low-income or vulnerable populations;

15 (ii) Construction, operation, or maintenance of, or funding for  
16 charging infrastructure, including smart charging infrastructure, or  
17 hydrogen fueling infrastructure;

18 (iii) Expanding grid capacity to enable transportation  
19 electrification investments directly associated with expenditures  
20 permitted by this chapter; and

21 (iv) Partnership programs with public and private vehicle fleet  
22 owners to enable increased electrification of transportation.

23 (b) Under (a) of this subsection, electric utilities should  
24 consider programs or projects that expand low and moderate-income  
25 customer access to zero emissions transportation, when prioritizing  
26 program expenditures.

27 (3) Electric utilities that participate in the clean fuels  
28 program must annually provide information to the department  
29 accounting for and briefly describing all expenditures of revenues  
30 generated from credits earned under the clean fuels program.

31 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May  
32 1st thereafter, the department must post a report on the department's  
33 website that includes the following information regarding the  
34 previous calendar year of clean fuels program activities:

35 (a) The program-wide number of credits and deficits generated by  
36 entities participating in the clean fuels program;

37 (b) The volumes of each transportation fuel and average price per  
38 credit used to comply with the requirements of the clean fuels  
39 program;

1 (c) The best estimate or range in probable costs or cost savings  
2 attributable to the clean fuels program per gallon of gasoline and  
3 per gallon of diesel, as determined by an independent consultant  
4 whose services the department has contracted. The estimate or range  
5 in probable costs or cost savings from the independent consultant  
6 must be announced in a press release to the news media at the time  
7 that the report under this subsection (1) is posted to the  
8 department's website, and must be simultaneously reported to the  
9 transportation committees of the house of representatives and the  
10 senate;

11 (d) The total greenhouse gas emissions reductions attributable to  
12 the clean fuels program isolated from the greenhouse gas emissions  
13 reductions attributable to other state and national programs on the  
14 same fuels; and

15 (e) The range in the probable cost per ton of greenhouse gas  
16 emissions reductions attributable to fuels supported by the clean  
17 fuels program, taking into account the information in (c) and (d) of  
18 this subsection.

19 (2) Nothing in this section prohibits the department from posting  
20 information described in subsection (1) of this section on a more  
21 frequent basis than once per year.

22 (3) By May 1, 2025, and each May 1st thereafter, the department  
23 must submit the report required under subsection (1) of this section  
24 to the appropriate committees of the house of representatives and  
25 senate.

26 (4) The department must contract for a one-time ex ante  
27 independent analysis of the information specified in subsection  
28 (1)(c) of this section covering each year of the program through  
29 2038. The analysis must be informed by input from stakeholders,  
30 including regulated industries, and informed by experience from other  
31 jurisdictions. The analysis must impute price impacts using multiple  
32 analytical methodologies and must make clear how the assumptions or  
33 factors considered differed in each methodology used and price impact  
34 imputed. The analysis required in this subsection must be completed  
35 and submitted to the appropriate committees of the legislature by  
36 July 1, 2022.

37 NEW SECTION. **Sec. 11.** (1) In consultation with the department,  
38 the utilities and transportation commission, and the department of  
39 agriculture, the department of commerce must develop a periodic fuel

1 supply forecast to project the availability of fuels to Washington  
2 necessary for compliance with clean fuels program requirements.

3 (2) Based upon the estimates in subsection (3) of this section,  
4 the fuel supply forecast must include a prediction by the department  
5 of commerce regarding whether sufficient credits will be available to  
6 comply with clean fuels program requirements.

7 (3) The fuel supply forecast for each upcoming compliance period  
8 must include, but is not limited to, the following:

9 (a) An estimate of the potential volumes of gasoline, gasoline  
10 substitutes, and gasoline alternatives, and diesel, diesel  
11 substitutes, and diesel alternatives available to Washington. In  
12 developing this estimate, the department of commerce must consider,  
13 but is not limited to considering:

14 (i) The existing and future vehicle fleet in Washington; and

15 (ii) Any constraints that might be preventing access to available  
16 and cost-effective low carbon fuels by Washington, such as geographic  
17 and logistical factors, and alleviating factors to the constraints;

18 (b) An estimate of the total banked credits and carried over  
19 deficits held by regulated parties, credit generators, and credit  
20 aggregators at the beginning of the compliance period, and an  
21 estimate of the total credits attributable to fuels described in (a)  
22 of this subsection;

23 (c) An estimate of the number of credits needed to meet the  
24 applicable clean fuels program requirements during the forecasted  
25 compliance period; and

26 (d) A comparison in the estimates of (a) and (b) of this  
27 subsection with the estimate in (c) of this subsection, for the  
28 purpose of indicating the availability of fuels and banked credits  
29 needed for compliance with the requirements of this chapter.

30 (4) The department of commerce, in coordination with the  
31 department, may appoint a forecast review team of relevant experts to  
32 participate in the fuel supply forecast or examination of data  
33 required by this section. The department of commerce must finalize a  
34 fuel supply forecast for an upcoming compliance period by no later  
35 than 90 days prior to the start of the compliance period.

36 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before  
37 the commencement of a compliance period, the department shall issue  
38 an order declaring a forecast deferral if the fuel supply forecast  
39 under section 11 of this act projects that the amount of credits that

1 will be available during the forecast compliance period will be less  
2 than 100 percent of the credits projected to be necessary for  
3 regulated parties to comply with the scheduled applicable clean fuels  
4 program standard adopted by the department for the forecast  
5 compliance period.

6 (2) An order declaring a forecast deferral under this section  
7 must set forth:

8 (a) The duration of the forecast deferral;

9 (b) The types of fuel to which the forecast deferral applies; and

10 (c) Which of the following methods the department has selected  
11 for deferring compliance with the scheduled applicable clean fuels  
12 program standard during the forecast deferral:

13 (i) Temporarily adjusting the scheduled applicable clean fuels  
14 program standard to a standard identified in the order that better  
15 reflects the forecast availability of credits during the forecast  
16 compliance period and requiring regulated parties to comply with the  
17 temporary standard;

18 (ii) Requiring regulated parties to comply only with the clean  
19 fuels program standard applicable during the compliance period prior  
20 to the forecast compliance period; or

21 (iii) Suspending deficit accrual for part or all of the forecast  
22 deferral period.

23 (3)(a) In implementing a forecast deferral, the department may  
24 take an action for deferring compliance with the clean fuels program  
25 standard other than, or in addition to, selecting a method under  
26 subsection (2)(c) of this section only if the department determines  
27 that none of the methods under subsection (2)(c) of this section will  
28 provide a sufficient mechanism for containing the costs of compliance  
29 with the clean fuels program standards during the forecast deferral.

30 (b) If the department makes the determination specified in (a) of  
31 this subsection, the department shall:

32 (i) Include in the order declaring a forecast deferral the  
33 determination and the action to be taken; and

34 (ii) Provide written notification and justification of the  
35 determination and the action to:

36 (A) The governor;

37 (B) The president of the senate;

38 (C) The speaker of the house of representatives;

39 (D) The majority and minority leaders of the senate; and

1 (E) The majority and minority leaders of the house of  
2 representatives.

3 (4) The duration of a forecast deferral may not be less than one  
4 calendar quarter or longer than one compliance period. Only the  
5 department may terminate, by order, a forecast deferral before the  
6 expiration date of the forecast deferral. Termination of a forecast  
7 deferral is effective on the first day of the next calendar quarter  
8 after the date that the order declaring the termination is adopted.

9 NEW SECTION. **Sec. 13.** (1) The director of the department may  
10 issue an order declaring an emergency deferral of compliance with the  
11 carbon intensity standard established under section 3 of this act no  
12 later than 15 calendar days after the date the department determines,  
13 in consultation with the governor's office and the department of  
14 commerce, that:

15 (a) Extreme and unusual circumstances exist that prevent the  
16 distribution of an adequate supply of renewable fuels needed for  
17 regulated parties to comply with the clean fuels program taking into  
18 consideration all available methods of obtaining sufficient credits  
19 to comply with the standard;

20 (b) The extreme and unusual circumstances are the result of a  
21 natural disaster, an act of God, a significant supply chain  
22 disruption or production facility equipment failure, or another event  
23 that could not reasonably have been foreseen or prevented and not the  
24 lack of prudent planning on the part of the suppliers of the fuels to  
25 the state; and

26 (c) It is in the public interest to grant the deferral such as  
27 when a deferral is necessary to meet projected temporary shortfalls  
28 in the supply of the renewable fuel in the state and that other  
29 methods of obtaining compliance credits are unavailable to compensate  
30 for the shortage of renewable fuel supply.

31 (2) If the director of the department makes the determination  
32 required under subsection (1) of this section, such a temporary  
33 extreme and unusual deferral is permitted only if:

34 (a) The deferral applies only for the shortest time necessary to  
35 address the extreme and unusual circumstances;

36 (b) The deferral is effective for the shortest practicable time  
37 period the director of the department determines necessary to permit  
38 the correction of the extreme and unusual circumstances; and

39 (c) The director has given public notice of a proposed deferral.

1 (3) An order declaring an emergency deferral under this section  
2 must set forth:

3 (a) The duration of the emergency deferral;

4 (b) The types of fuel to which the emergency deferral applies;

5 (c) Which of the following methods the department has selected  
6 for deferring compliance with the clean fuels program during the  
7 emergency deferral:

8 (i) Temporarily adjusting the scheduled applicable carbon  
9 intensity standard to a standard identified in the order that better  
10 reflects the availability of credits during the emergency deferral  
11 and requiring regulated parties to comply with the temporary  
12 standard;

13 (ii) Allowing for the carryover of deficits accrued during the  
14 emergency deferral into the next compliance period without penalty;  
15 or

16 (iii) Suspending deficit accrual during the emergency deferral  
17 period.

18 (4) An emergency deferral may be terminated prior to the  
19 expiration date of the emergency deferral if new information becomes  
20 available indicating that the shortage that provided the basis for  
21 the emergency deferral has ended. The director of the department  
22 shall consult with the department of commerce and the governor's  
23 office in making an early termination decision. Termination of an  
24 emergency deferral is effective 15 calendar days after the date that  
25 the order declaring the termination is adopted.

26 (5)(a) In addition to the emergency deferral specified in  
27 subsection (1) of this section, the department may issue a full or  
28 partial deferral for one calendar quarter of a person's obligation to  
29 furnish credits for compliance under section 4 of this act if it  
30 finds that the person is unable to comply with the requirements of  
31 this chapter due to reasons beyond the person's reasonable control.  
32 The department may initiate a deferral under this subsection at its  
33 own discretion or at the request of a person regulated under this  
34 chapter. The department may renew issued deferrals. In evaluating  
35 whether to issue a deferral under this subsection, the department may  
36 consider the results of the fuel supply forecast in section 11 of  
37 this act, but is not bound in its decision-making discretion by the  
38 results of the forecast.

39 (b) If the department issues a deferral pursuant to this  
40 subsection, the department may:

1 (i) Direct the person subject to the deferral to file a progress  
2 report on achieving full compliance with the requirements of this  
3 chapter within an amount of time determined to be reasonable by the  
4 department; and

5 (ii) Direct the person to take specific actions to achieve full  
6 compliance with the requirements of this chapter.

7 (c) The issuance of a deferral under this subsection does not  
8 permanently relieve the deferral recipient of the obligation to  
9 comply with the requirements of this chapter.

10 NEW SECTION. **Sec. 14.** (1) The department may require that  
11 persons that are required or elect to register or report under this  
12 chapter pay a fee. If the department elects to require program  
13 participants to pay a fee, the department must, after an opportunity  
14 for public review and comment, adopt rules to establish a process to  
15 determine the payment schedule and the amount of the fee charged. The  
16 amount of the fee must be set so as to equal but not exceed the  
17 projected direct and indirect costs to the department for developing  
18 and implementing the program and the projected direct and indirect  
19 costs to the department of commerce to carry out its responsibilities  
20 under section 11 of this act. The department and the department of  
21 commerce must prepare a biennial workload analysis and provide an  
22 opportunity for public review of and comment on the workload  
23 analysis. The department shall enter into an interagency agreement  
24 with the department of commerce to implement this section.

25 (2) The clean fuels program account is created in the state  
26 treasury. All receipts from fees and penalties received under the  
27 program created in this chapter must be deposited into the account.  
28 Moneys in the account may be spent only after appropriation. The  
29 department may only use expenditures from the account for carrying  
30 out the program created in this chapter.

31 (3) All rule making authorized under this act must be conducted  
32 according to the standards for significant legislative rules provided  
33 in RCW 34.05.328.

34 NEW SECTION. **Sec. 15.** (1) By December 1, 2030, the joint  
35 legislative audit and review committee must analyze the impacts of  
36 the initial five years of clean fuels program implementation and must  
37 submit a report summarizing the analysis to the legislature. The  
38 analysis must include, at minimum, the following components:

1 (a) Costs and benefits, including environmental and public health  
2 costs and benefits, associated with this chapter for categories of  
3 persons participating in the clean fuels program or that are most  
4 impacted by air pollution, as defined in consultation with the  
5 departments of ecology and health and as measured on a census tract  
6 scale. This component of the analysis must, at minimum, assess the  
7 costs and benefits of changes in the following metrics since the  
8 start of the program:

9 (i) Levels of greenhouse gas emissions and criteria air  
10 pollutants for which the United States environmental protection  
11 agency has established national ambient air quality standards;

12 (ii) Fuel prices; and

13 (iii) Total employment in categories of industries generating  
14 credits or deficits. The categories of industries assessed must  
15 include but are not limited to electric utilities, oil refineries,  
16 and other industries involved in the production of high carbon fuels,  
17 industries involved in the delivery and sale of high carbon fuels,  
18 biofuel refineries, and industries involved in the delivery and sale  
19 of low carbon fuels;

20 (b) An evaluation of the information calculated and provided by  
21 the department under section 10(1) of this act;

22 (c) A summary of the estimated total statewide costs and benefits  
23 attributable to the clean fuels program, including state agency  
24 administrative costs and regulated entity compliance costs. For  
25 purposes of calculating the benefits of the program, the summary may  
26 rely, in part, on a constant value of the social costs attributable  
27 to greenhouse gas emissions, as identified in contemporary  
28 internationally accepted estimates of such global social cost. This  
29 summary must include an estimate of the total statewide costs of the  
30 program per ton of greenhouse gas emissions reductions achieved by  
31 the clean fuels program;

32 (d) An evaluation of the impacts of the program on low-income  
33 households; and

34 (e) The outcomes of proposals to site biofuel facilities through  
35 the energy facility site evaluation council review process that is  
36 allowed by RCW 80.50.060(2).

37 (2) This section expires June 30, 2030.

38 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.04  
39 RCW to read as follows:



1 (1) This chapter does not apply to amounts received from the  
2 generation, purchase, sale, transfer, or retirement of credits under  
3 chapter 70A.--- RCW (the new chapter created in section 29 of this  
4 act).

5 (2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to  
6 subsection (1) of this section.

7 **Sec. 17.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and  
8 amended to read as follows:

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

11 (1) "Alternative energy resource" includes energy facilities of  
12 the following types: (a) Wind; (b) solar energy; (c) geothermal  
13 energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass  
14 energy based on solid organic fuels from wood, forest, or field  
15 residues, or dedicated energy crops that do not include wood pieces  
16 that have been treated with chemical preservatives such as creosote,  
17 pentachlorophenol, or copper-chrome-arsenic.

18 (2) "Applicant" means any person who makes application for a site  
19 certification pursuant to the provisions of this chapter.

20 (3) "Application" means any request for approval of a particular  
21 site or sites filed in accordance with the procedures established  
22 pursuant to this chapter, unless the context otherwise requires.

23 (4) "Associated facilities" means storage, transmission,  
24 handling, or other related and supporting facilities connecting an  
25 energy plant with the existing energy supply, processing, or  
26 distribution system, including, but not limited to, communications,  
27 controls, mobilizing or maintenance equipment, instrumentation, and  
28 other types of ancillary transmission equipment, off-line storage or  
29 venting required for efficient operation or safety of the  
30 transmission system and overhead, and surface or subsurface lines of  
31 physical access for the inspection, maintenance, and safe operations  
32 of the transmission facility and new transmission lines constructed  
33 to operate at nominal voltages of at least 115,000 volts to connect a  
34 thermal power plant or alternative energy facilities to the northwest  
35 power grid. However, common carrier railroads or motor vehicles shall  
36 not be included.

37 (5) "Biofuel" (~~(has the same meaning as defined in RCW~~  
38 ~~43.325.010)~~) means a liquid or gaseous fuel derived from organic  
39 matter intended for use as a transportation fuel including, but not

1 limited to, biodiesel, renewable diesel, ethanol, renewable natural  
2 gas, and renewable propane.

3 (6) "Certification" means a binding agreement between an  
4 applicant and the state which shall embody compliance to the siting  
5 guidelines, in effect as of the date of certification, which have  
6 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as  
7 conditions to be met prior to or concurrent with the construction or  
8 operation of any energy facility.

9 (7) "Construction" means on-site improvements, excluding  
10 exploratory work, which cost in excess of two hundred fifty thousand  
11 dollars.

12 (8) "Council" means the energy facility site evaluation council  
13 created by RCW 80.50.030.

14 (9) "Counsel for the environment" means an assistant attorney  
15 general or a special assistant attorney general who shall represent  
16 the public in accordance with RCW 80.50.080.

17 (10) "Electrical transmission facilities" means electrical power  
18 lines and related equipment.

19 (11) "Energy facility" means an energy plant or transmission  
20 facilities: PROVIDED, That the following are excluded from the  
21 provisions of this chapter:

22 (a) Facilities for the extraction, conversion, transmission or  
23 storage of water, other than water specifically consumed or  
24 discharged by energy production or conversion for energy purposes;  
25 and

26 (b) Facilities operated by and for the armed services for  
27 military purposes or by other federal authority for the national  
28 defense.

29 (12) "Energy plant" means the following facilities together with  
30 their associated facilities:

31 (a) Any nuclear power facility where the primary purpose is to  
32 produce and sell electricity;

33 (b) Any nonnuclear stationary thermal power plant with generating  
34 capacity of three hundred fifty thousand kilowatts or more, measured  
35 using maximum continuous electric generating capacity, less minimum  
36 auxiliary load, at average ambient temperature and pressure, and  
37 floating thermal power plants of one hundred thousand kilowatts or  
38 more suspended on the surface of water by means of a barge, vessel,  
39 or other floating platform;

1 (c) Facilities which will have the capacity to receive liquefied  
2 natural gas in the equivalent of more than one hundred million  
3 standard cubic feet of natural gas per day, which has been  
4 transported over marine waters;

5 (d) Facilities which will have the capacity to receive more than  
6 an average of fifty thousand barrels per day of crude or refined  
7 petroleum or liquefied petroleum gas which has been or will be  
8 transported over marine waters, except that the provisions of this  
9 chapter shall not apply to storage facilities unless occasioned by  
10 such new facility construction;

11 (e) Any underground reservoir for receipt and storage of natural  
12 gas as defined in RCW 80.40.010 capable of delivering an average of  
13 more than one hundred million standard cubic feet of natural gas per  
14 day; (~~and~~)

15 (f) Facilities capable of processing more than twenty-five  
16 thousand barrels per day of petroleum or biofuel into refined  
17 products except where such biofuel production is undertaken at  
18 existing industrial facilities; and

19 (g) Facilities capable of producing more than one thousand five  
20 hundred barrels per day of refined biofuel but less than twenty-five  
21 thousand barrels of refined biofuel.

22 (13) "Independent consultants" means those persons who have no  
23 financial interest in the applicant's proposals and who are retained  
24 by the council to evaluate the applicant's proposals, supporting  
25 studies, or to conduct additional studies.

26 (14) "Land use plan" means a comprehensive plan or land use  
27 element thereof adopted by a unit of local government pursuant to  
28 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise  
29 designated by chapter 325, Laws of 2007.

30 (15) "Person" means an individual, partnership, joint venture,  
31 private or public corporation, association, firm, public service  
32 company, political subdivision, municipal corporation, government  
33 agency, public utility district, or any other entity, public or  
34 private, however organized.

35 (16) "Preapplicant" means a person considering applying for a  
36 site certificate agreement for any transmission facility.

37 (17) "Preapplication process" means the process which is  
38 initiated by written correspondence from the preapplicant to the  
39 council, and includes the process adopted by the council for

1 consulting with the preapplicant and with cities, towns, and counties  
2 prior to accepting applications for all transmission facilities.

3 (18) "Secretary" means the secretary of the United States  
4 department of energy.

5 (19) "Site" means any proposed or approved location of an energy  
6 facility, alternative energy resource, or electrical transmission  
7 facility.

8 (20) "Thermal power plant" means, for the purpose of  
9 certification, any electrical generating facility using any fuel for  
10 distribution of electricity by electric utilities.

11 (21) "Transmission facility" means any of the following together  
12 with their associated facilities:

13 (a) Crude or refined petroleum or liquid petroleum product  
14 transmission pipeline of the following dimensions: A pipeline larger  
15 than six inches minimum inside diameter between valves for the  
16 transmission of these products with a total length of at least  
17 fifteen miles;

18 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas  
19 transmission pipeline of the following dimensions: A pipeline larger  
20 than fourteen inches minimum inside diameter between valves, for the  
21 transmission of these products, with a total length of at least  
22 fifteen miles for the purpose of delivering gas to a distribution  
23 facility, except an interstate natural gas pipeline regulated by the  
24 United States federal power commission.

25 (22) "Zoning ordinance" means an ordinance of a unit of local  
26 government regulating the use of land and adopted pursuant to chapter  
27 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
28 Constitution, or as otherwise designated by chapter 325, Laws of  
29 2007.

30 **Sec. 18.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to  
31 read as follows:

32 (1) ~~((The))~~ Except for biofuel refineries specified in RCW  
33 80.50.020(12)(g), the provisions of this chapter apply to the  
34 construction of energy facilities which includes the new construction  
35 of energy facilities and the reconstruction or enlargement of  
36 existing energy facilities where the net increase in physical  
37 capacity or dimensions resulting from such reconstruction or  
38 enlargement meets or exceeds those capacities or dimensions set forth  
39 in RCW 80.50.020 ~~((+7))~~ (12) and ~~((+15))~~ (21). No construction of

1 such energy facilities may be undertaken, except as otherwise  
2 provided in this chapter, after July 15, 1977, without first  
3 obtaining certification in the manner provided in this chapter.

4 (2) The provisions of this chapter apply to the construction,  
5 reconstruction, or enlargement of a new or existing biofuel refinery  
6 specified in RCW 80.50.020(12)(g) or a new or existing energy  
7 facility that exclusively uses alternative energy resources and  
8 chooses to receive certification under this chapter, regardless of  
9 the generating capacity of the project.

10 (3)(a) The provisions of this chapter apply to the construction,  
11 reconstruction, or modification of electrical transmission facilities  
12 when:

13 (i) The facilities are located in a national interest electric  
14 transmission corridor as specified in RCW 80.50.045;

15 (ii) An applicant chooses to receive certification under this  
16 chapter, and the facilities are: (A) Of a nominal voltage of at least  
17 one hundred fifteen thousand volts and are located in a completely  
18 new corridor, except for the terminus of the new facility or  
19 interconnection of the new facility with the existing grid, and the  
20 corridor is not otherwise used for electrical transmission  
21 facilities; and (B) located in more than one jurisdiction that has  
22 promulgated land use plans or zoning ordinances; or

23 (iii) An applicant chooses to receive certification under this  
24 chapter, and the facilities are: (A) Of a nominal voltage in excess  
25 of one hundred fifteen thousand volts; and (B) located outside an  
26 electrical transmission corridor identified in (a)(i) and (ii) of  
27 this subsection (3).

28 (b) For the purposes of this subsection, "modify" means a  
29 significant change to an electrical transmission facility and does  
30 not include the following: (i) Minor improvements such as the  
31 replacement of existing transmission line facilities or supporting  
32 structures with equivalent facilities or structures; (ii) the  
33 relocation of existing electrical transmission line facilities; (iii)  
34 the conversion of existing overhead lines to underground; or (iv) the  
35 placing of new or additional conductors, supporting structures,  
36 insulators, or their accessories on or replacement of supporting  
37 structures already built.

38 (4) The provisions of this chapter shall not apply to normal  
39 maintenance and repairs which do not increase the capacity or

1 dimensions beyond those set forth in RCW 80.50.020 (~~((7))~~) (12) and  
2 (~~((15))~~) (21).

3 (5) Applications for certification of energy facilities made  
4 prior to July 15, 1977, shall continue to be governed by the  
5 applicable provisions of law in effect on the day immediately  
6 preceding July 15, 1977, with the exceptions of RCW 80.50.190 and  
7 80.50.071 which shall apply to such prior applications and to site  
8 certifications prospectively from July 15, 1977.

9 (6) Applications for certification shall be upon forms prescribed  
10 by the council and shall be supported by such information and  
11 technical studies as the council may require.

12 **Sec. 19.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each  
13 amended to read as follows:

14 (1) A person applying for a motor vehicle registration and paying  
15 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),  
16 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in  
17 addition to all other fees and taxes required by law.

18 (a) For vehicle registrations that are due or become due before  
19 July 1, 2016, the motor vehicle weight fee:

- 20 (i) Must be based on the motor vehicle scale weight;
- 21 (ii) Is the difference determined by subtracting the vehicle  
22 license fee required in RCW 46.17.350 from the license fee in  
23 Schedule B of RCW 46.17.355, plus two dollars; and
- 24 (iii) Must be distributed under RCW 46.68.415.

25 (b) For vehicle registrations that are due or become due on or  
26 after July 1, 2016, the motor vehicle weight fee:

27 (i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

33 (ii) If the resultant motor vehicle scale weight is not listed in  
34 the table provided in (b)(i) of this subsection, must be increased to  
35 the next highest weight; and

36 (iii) Must be distributed under RCW 46.68.415 unless prior to  
37 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this

1 subsection occur, in which case the portion of the revenue that is  
2 the result of the fee increased in this subsection must be  
3 distributed to the connecting Washington account created under RCW  
4 46.68.395.

5 (A) Any state agency files a notice of rule making under chapter  
6 34.05 RCW, absent explicit legislative authorization enacted  
7 subsequent to July 1, 2015, for a rule regarding a fuel standard  
8 based upon or defined by the carbon intensity of fuel, including a  
9 low carbon fuel standard or clean fuel standard.

10 (B) Any state agency otherwise enacts, adopts, orders, or in any  
11 way implements a fuel standard based upon or defined by the carbon  
12 intensity of fuel, including a low carbon fuel standard or clean fuel  
13 standard, without explicit legislative authorization enacted  
14 subsequent to July 1, 2015.

15 (C) Nothing in this subsection acknowledges, establishes, or  
16 creates legal authority for the department of ecology or any other  
17 state agency to enact, adopt, order, or in any way implement a fuel  
18 standard based upon or defined by the carbon intensity of fuel,  
19 including a low carbon fuel standard or clean fuel standard.

20 (2) A person applying for a motor home vehicle registration  
21 shall, in lieu of the motor vehicle weight fee required in subsection  
22 (1) of this section, pay a motor home vehicle weight fee of seventy-  
23 five dollars in addition to all other fees and taxes required by law.  
24 The motor home vehicle weight fee must be distributed under RCW  
25 46.68.415.

26 (3) Beginning July 1, 2022, in addition to the motor vehicle  
27 weight fee as provided in subsection (1) of this section, the  
28 department, county auditor or other agent, or subagent appointed by  
29 the director must require an applicant to pay an additional weight  
30 fee of ten dollars, which must be distributed to the multimodal  
31 transportation account under RCW 47.66.070 unless prior to July 1,  
32 2023, the actions described in (a) or (b) of this subsection occur,  
33 in which case the portion of the revenue that is the result of the  
34 fee increased in this subsection must be distributed to the  
35 connecting Washington account created under RCW 46.68.395.

36 (a) Any state agency files a notice of rule making under chapter  
37 34.05 RCW, absent explicit legislative authorization enacted  
38 subsequent to July 1, 2015, for a rule regarding a fuel standard  
39 based upon or defined by the carbon intensity of fuel, including a  
40 low carbon fuel standard or clean fuel standard.

1 (b) Any state agency otherwise enacts, adopts, orders, or in any  
2 way implements a fuel standard based upon or defined by the carbon  
3 intensity of fuel, including a low carbon fuel standard or clean fuel  
4 standard, without explicit legislative authorization enacted  
5 subsequent to July 1, 2015.

6 (c) Nothing in this subsection acknowledges, establishes, or  
7 creates legal authority for the department of ecology or any other  
8 state agency to enact, adopt, order, or in any way implement a fuel  
9 standard based upon or defined by the carbon intensity of fuel,  
10 including a low carbon fuel standard or clean fuel standard.

11 (4) The department shall:

12 (a) Rely on motor vehicle empty scale weights provided by vehicle  
13 manufacturers, or other sources defined by the department, to  
14 determine the weight of each motor vehicle; and

15 (b) Adopt rules for determining weight for vehicles without  
16 manufacturer empty scale weights.

17 **Sec. 20.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each  
18 amended to read as follows:

19 (1) When a person has been disqualified from operating a  
20 commercial motor vehicle, the person is not entitled to have the  
21 commercial driver's license or commercial learner's permit restored  
22 until after the expiration of the appropriate disqualification period  
23 required under RCW 46.25.090 or until the department has received a  
24 drug and alcohol assessment and evidence is presented of satisfactory  
25 participation in or completion of any required drug or alcohol  
26 treatment program for ending the disqualification under RCW  
27 46.25.090(7). After expiration of the appropriate period and upon  
28 payment of a requalification fee of twenty dollars until June 30,  
29 2016, and thirty-five dollars beginning July 1, 2016, or one hundred  
30 fifty dollars if the person has been disqualified under RCW  
31 46.25.090(7), the person may apply for a new, duplicate, or renewal  
32 commercial driver's license or commercial learner's permit as  
33 provided by law. If the person has been disqualified for a period of  
34 one year or more, the person shall demonstrate that he or she meets  
35 the commercial driver's license or commercial learner's permit  
36 qualification standards specified in RCW 46.25.060.

37 (2) The fees under this section must be deposited into the  
38 highway safety fund unless prior to July 1, 2023, the actions  
39 described in (a) or (b) of this subsection occur, in which case the



1 portion of the revenue that is the result of the fee increased in  
2 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be  
3 distributed to the connecting Washington account created under RCW  
4 46.68.395.

5 (a) Any state agency files a notice of rule making under chapter  
6 34.05 RCW, absent explicit legislative authorization enacted  
7 subsequent to July 1, 2015, for a rule regarding a fuel standard  
8 based upon or defined by the carbon intensity of fuel, including a  
9 low carbon fuel standard or clean fuel standard.

10 (b) Any state agency otherwise enacts, adopts, orders, or in any  
11 way implements a fuel standard based upon or defined by the carbon  
12 intensity of fuel, including a low carbon fuel standard or clean fuel  
13 standard, without explicit legislative authorization enacted  
14 subsequent to July 1, 2015.

15 (c) Nothing in this subsection acknowledges, establishes, or  
16 creates legal authority for the department of ecology or any other  
17 state agency to enact, adopt, order, or in any way implement a fuel  
18 standard based upon or defined by the carbon intensity of fuel,  
19 including a low carbon fuel standard or clean fuel standard.

20 **Sec. 21.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to  
21 read as follows:

22 (1) The department may enter into a memorandum of understanding  
23 with any federal agency for the purposes of facilitating the crossing  
24 of the border between the state of Washington and the Canadian  
25 province of British Columbia.

26 (2) The department may enter into an agreement with the Canadian  
27 province of British Columbia for the purposes of implementing a  
28 border-crossing initiative.

29 (3)(a) The department may issue an enhanced driver's license or  
30 identicard for the purposes of crossing the border between the state  
31 of Washington and the Canadian province of British Columbia to an  
32 applicant who provides the department with proof of: United States  
33 citizenship, identity, and state residency. The department shall  
34 continue to offer a standard driver's license and identicard. If the  
35 department chooses to issue an enhanced driver's license, the  
36 department must allow each applicant to choose between a standard  
37 driver's license or identicard, or an enhanced driver's license or  
38 identicard.

1 (b) The department shall implement a one-to-many biometric  
2 matching system for the enhanced driver's license or identicard. An  
3 applicant for an enhanced driver's license or identicard shall submit  
4 a biometric identifier as designated by the department. The biometric  
5 identifier must be used solely for the purpose of verifying the  
6 identity of the holders and for any purpose set out in RCW 46.20.037.  
7 Applicants are required to sign a declaration acknowledging their  
8 understanding of the one-to-many biometric match.

9 (c) The enhanced driver's license or identicard must include  
10 reasonable security measures to protect the privacy of Washington  
11 state residents, including reasonable safeguards to protect against  
12 unauthorized disclosure of data about Washington state residents. If  
13 the enhanced driver's license or identicard includes a radio  
14 frequency identification chip, or similar technology, the department  
15 shall ensure that the technology is encrypted or otherwise secure  
16 from unauthorized data access.

17 (d) The requirements of this subsection are in addition to the  
18 requirements otherwise imposed on applicants for a driver's license  
19 or identicard. The department shall adopt such rules as necessary to  
20 meet the requirements of this subsection. From time to time the  
21 department shall review technological innovations related to the  
22 security of identity cards and amend the rules related to enhanced  
23 driver's licenses and identicards as the director deems consistent  
24 with this section and appropriate to protect the privacy of  
25 Washington state residents.

26 (e) Notwithstanding RCW 46.20.118, the department may make images  
27 associated with enhanced drivers' licenses or identicards from the  
28 negative file available to United States customs and border agents  
29 for the purposes of verifying identity.

30 (4) Beginning on July 23, 2017, the fee for an enhanced driver's  
31 license or enhanced identicard is twenty-four dollars, which is in  
32 addition to the fees for any regular driver's license or identicard.  
33 If the enhanced driver's license or enhanced identicard is issued,  
34 renewed, or extended for a period other than six years, the fee for  
35 each class is four dollars for each year that the enhanced driver's  
36 license or enhanced identicard is issued, renewed, or extended.

37 (5) The enhanced driver's license and enhanced identicard fee  
38 under this section must be deposited into the highway safety fund  
39 unless prior to July 1, 2023, the actions described in (a) or (b) of  
40 this subsection occur, in which case the portion of the revenue that

1 is the result of the fee increased in section 209, chapter 44, Laws  
2 of 2015 3rd sp. sess. must be distributed to the connecting  
3 Washington account created under RCW 46.68.395.

4 (a) Any state agency files a notice of rule making under chapter  
5 34.05 RCW, absent explicit legislative authorization enacted  
6 subsequent to July 1, 2015, for a rule regarding a fuel standard  
7 based upon or defined by the carbon intensity of fuel, including a  
8 low carbon fuel standard or clean fuel standard.

9 (b) Any state agency otherwise enacts, adopts, orders, or in any  
10 way implements a fuel standard based upon or defined by the carbon  
11 intensity of fuel, including a low carbon fuel standard or clean fuel  
12 standard, without explicit legislative authorization enacted  
13 subsequent to July 1, 2015.

14 (c) Nothing in this subsection acknowledges, establishes, or  
15 creates legal authority for the department of ecology or any other  
16 state agency to enact, adopt, order, or in any way implement a fuel  
17 standard based upon or defined by the carbon intensity of fuel,  
18 including a low carbon fuel standard or clean fuel standard.

19 **Sec. 22.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each  
20 amended to read as follows:

21 (1) The department may issue a CLP to an applicant who is at  
22 least eighteen years of age and holds a valid Washington state  
23 driver's license and who has:

24 (a) Submitted an application on a form or in a format provided by  
25 the department;

26 (b) Passed the general knowledge examination required for  
27 issuance of a CDL under RCW 46.25.060 for the commercial motor  
28 vehicle classification in which the applicant operates or expects to  
29 operate; and

30 (c) Paid the appropriate examination fee or fees and an  
31 application fee of ten dollars until June 30, 2016, and forty dollars  
32 beginning July 1, 2016.

33 (2) A CLP must be marked "commercial learner's permit" or "CLP,"  
34 and must be, to the maximum extent practicable, tamperproof. Other  
35 than a photograph of the applicant, it must include, but not be  
36 limited to, the information required on a CDL under RCW 46.25.080(1).

37 (3) The holder of a CLP may drive a commercial motor vehicle on a  
38 highway only when in possession of a valid driver's license and  
39 accompanied by the holder of a valid CDL who has the proper CDL

1 classification and endorsement or endorsements necessary to operate  
2 the commercial motor vehicle. The CDL holder must at all times be  
3 physically present in the front seat of the vehicle next to the CLP  
4 holder or, in the case of a passenger vehicle, directly behind or in  
5 the first row behind the driver and must have the CLP holder under  
6 observation and direct supervision.

7 (4) A CLP may be classified in the same manner as a CDL under RCW  
8 46.25.080(2)(a).

9 (5) CLPs may be issued with only P, S, or N endorsements as  
10 described in RCW 46.25.080(2)(b).

11 (a) The holder of a CLP with a P endorsement must have taken and  
12 passed the P endorsement knowledge examination. The holder of a CLP  
13 with a P endorsement is prohibited from operating a commercial motor  
14 vehicle carrying passengers other than authorized employees or  
15 representatives of the department and the federal motor carrier  
16 safety administration, examiners, other trainees, and the CDL holder  
17 accompanying the CLP holder as required under subsection (2) of this  
18 section. The P endorsement must be class specific.

19 (b) The holder of a CLP with an S endorsement must have taken and  
20 passed the S endorsement knowledge examination. The holder of a CLP  
21 with an S endorsement is prohibited from operating a school bus with  
22 passengers other than authorized employees or representatives of the  
23 department and the federal motor carrier safety administration,  
24 examiners, other trainees, and the CDL holder accompanying the CLP  
25 holder as required under subsection (2) of this section.

26 (c) The holder of a CLP with an N endorsement must have taken and  
27 passed the N endorsement knowledge examination. The holder of a CLP  
28 with an N endorsement may only operate an empty tank vehicle and is  
29 prohibited from operating any tank vehicle that previously contained  
30 hazardous materials and has not been purged of any residue.

31 (6) A CLP may be issued with appropriate restrictions as  
32 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued  
33 with the following restrictions:

34 (a) "P" restricts the driver from operating a bus with  
35 passengers;

36 (b) "X" restricts the driver from operating a tank vehicle that  
37 contains cargo; and

38 (c) Any restriction as established by rule of the department.

39 (7) The holder of a CLP is not authorized to operate a commercial  
40 motor vehicle transporting hazardous materials.

1 (8) A CLP may not be issued for a period to exceed one hundred  
2 eighty days. The department may renew the CLP for one additional one  
3 hundred eighty-day period without requiring the CLP holder to retake  
4 the general and endorsement knowledge examinations.

5 (9) The department must transmit the fees collected for CLPs to  
6 the state treasurer for deposit in the highway safety fund unless  
7 prior to July 1, 2023, the actions described in (a) or (b) of this  
8 subsection occur, in which case the portion of the revenue that is  
9 the result of the fee increased in section 206, chapter 44, Laws of  
10 2015 3rd sp. sess. must be distributed to the connecting Washington  
11 account created under RCW 46.68.395.

12 (a) Any state agency files a notice of rule making under chapter  
13 34.05 RCW, absent explicit legislative authorization enacted  
14 subsequent to July 1, 2015, for a rule regarding a fuel standard  
15 based upon or defined by the carbon intensity of fuel, including a  
16 low carbon fuel standard or clean fuel standard.

17 (b) Any state agency otherwise enacts, adopts, orders, or in any  
18 way implements a fuel standard based upon or defined by the carbon  
19 intensity of fuel, including a low carbon fuel standard or clean fuel  
20 standard, without explicit legislative authorization enacted  
21 subsequent to July 1, 2015.

22 (c) Nothing in this subsection acknowledges, establishes, or  
23 creates legal authority for the department of ecology or any other  
24 state agency to enact, adopt, order, or in any way implement a fuel  
25 standard based upon or defined by the carbon intensity of fuel,  
26 including a low carbon fuel standard or clean fuel standard.

27 **Sec. 23.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to  
28 read as follows:

29 (1)(a) No person may be issued a commercial driver's license  
30 unless that person:

31 (i) Is a resident of this state;

32 (ii) Has successfully completed a course of instruction in the  
33 operation of a commercial motor vehicle that has been approved by the  
34 director or has been certified by an employer as having the skills  
35 and training necessary to operate a commercial motor vehicle safely;

36 (iii) If he or she does not hold a valid commercial driver's  
37 license of the appropriate classification, has been issued a  
38 commercial learner's permit under RCW 46.25.052; and

1 (iv) Has passed a knowledge and skills examination for driving a  
2 commercial motor vehicle that complies with minimum federal standards  
3 established by federal regulation enumerated in 49 C.F.R. Part 383,  
4 subparts F, G, and H, in addition to other requirements imposed by  
5 state law or federal regulation. The department may not allow the  
6 person to take the skills examination during the first fourteen days  
7 after initial issuance of the person's commercial learner's permit.  
8 The examinations must be prescribed and conducted by the department.

9 (b) In addition to the fee charged for issuance or renewal of any  
10 license, the applicant shall pay a fee of no more than ten dollars  
11 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,  
12 for the classified knowledge examination, classified endorsement  
13 knowledge examination, or any combination of classified license and  
14 endorsement knowledge examinations. The applicant shall pay a fee of  
15 no more than one hundred dollars until June 30, 2016, and two hundred  
16 fifty dollars beginning July 1, 2016, for each classified skill  
17 examination or combination of classified skill examinations conducted  
18 by the department.

19 (c) The department may authorize a person, including an agency of  
20 this or another state, an employer, a private driver training  
21 facility, or other private institution, or a department, agency, or  
22 instrumentality of local government, to administer the skills  
23 examination specified by this section under the following conditions:

24 (i) The examination is the same which would otherwise be  
25 administered by the state;

26 (ii) The third party has entered into an agreement with the state  
27 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

28 (iii) The director has adopted rules as to the third party  
29 testing program and the development and justification for fees  
30 charged by any third party.

31 (d) If the applicant's primary use of a commercial driver's  
32 license is for any of the following, then the applicant shall pay a  
33 fee of no more than seventy-five dollars until June 30, 2016, and two  
34 hundred twenty-five dollars beginning July 1, 2016, for the  
35 classified skill examination or combination of classified skill  
36 examinations whether conducted by the department or a third-party  
37 tester:

38 (i) Public benefit not-for-profit corporations that are federally  
39 supported head start programs; or

1 (ii) Public benefit not-for-profit corporations that support  
2 early childhood education and assistance programs as described in RCW  
3 43.216.505.

4 (e) Beginning July 1, 2016, if the applicant's primary use of a  
5 commercial driver's license is to drive a school bus, the applicant  
6 shall pay a fee of no more than one hundred dollars for the  
7 classified skill examination or combination of classified skill  
8 examinations conducted by the department.

9 (f) Beginning July 1, 2016, payment of the examination fees under  
10 this subsection entitles the applicant to take the examination up to  
11 two times in order to pass.

12 (2)(a) The department may waive the skills examination and the  
13 requirement for completion of a course of instruction in the  
14 operation of a commercial motor vehicle specified in this section for  
15 a commercial driver's license applicant who meets the requirements of  
16 49 C.F.R. Sec. 383.77. For current or former military service members  
17 that meet the requirements of 49 C.F.R. Sec. 383.77, the department  
18 may also waive the requirements for a knowledge test for commercial  
19 driver's license applicants. Beginning December 1, 2021, the  
20 department shall provide an annual report to the house and senate  
21 transportation committees and the joint committee on veterans' and  
22 military affairs of the legislature on the number and types of  
23 waivers granted pursuant to this subsection.

24 (b) An applicant who operates a commercial motor vehicle for  
25 agribusiness purposes is exempt from the course of instruction  
26 completion and employer skills and training certification  
27 requirements under this section. By January 1, 2010, the department  
28 shall submit recommendations regarding the continuance of this  
29 exemption to the transportation committees of the legislature. For  
30 purposes of this subsection (2)(b), "agribusiness" means a private  
31 carrier who in the normal course of business primarily transports:

32 (i) Farm machinery, farm equipment, implements of husbandry, farm  
33 supplies, and materials used in farming;

34 (ii) Agricultural inputs, such as seed, feed, fertilizer, and  
35 crop protection products;

36 (iii) Unprocessed agricultural commodities, as defined in RCW  
37 17.21.020, where such commodities are produced by farmers, ranchers,  
38 vineyardists, or orchardists; or

39 (iv) Any combination of (b)(i) through (iii) of this subsection.

1 The department shall notify the transportation committees of the  
2 legislature if the federal government takes action affecting the  
3 exemption provided in this subsection (2)(b).

4 (3) A commercial driver's license or commercial learner's permit  
5 may not be issued to a person while the person is subject to a  
6 disqualification from driving a commercial motor vehicle, or while  
7 the person's driver's license is suspended, revoked, or canceled in  
8 any state, nor may a commercial driver's license be issued to a  
9 person who has a commercial driver's license issued by any other  
10 state unless the person first surrenders all such licenses, which  
11 must be returned to the issuing state for cancellation.

12 (4) The fees under this section must be deposited into the  
13 highway safety fund unless prior to July 1, 2023, the actions  
14 described in (a) or (b) of this subsection occur, in which case the  
15 portion of the revenue that is the result of the fee increased in  
16 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be  
17 distributed to the connecting Washington account created under RCW  
18 46.68.395.

19 (a) Any state agency files a notice of rule making under chapter  
20 34.05 RCW, absent explicit legislative authorization enacted  
21 subsequent to July 1, 2015, for a rule regarding a fuel standard  
22 based upon or defined by the carbon intensity of fuel, including a  
23 low carbon fuel standard or clean fuel standard.

24 (b) Any state agency otherwise enacts, adopts, orders, or in any  
25 way implements a fuel standard based upon or defined by the carbon  
26 intensity of fuel, including a low carbon fuel standard or clean fuel  
27 standard, without explicit legislative authorization enacted  
28 subsequent to July 1, 2015.

29 (c) Nothing in this subsection acknowledges, establishes, or  
30 creates legal authority for the department of ecology or any other  
31 state agency to enact, adopt, order, or in any way implement a fuel  
32 standard based upon or defined by the carbon intensity of fuel,  
33 including a low carbon fuel standard or clean fuel standard.

34 **Sec. 24.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended  
35 to read as follows:

36 (1) Any person who knowingly violates any of the provisions of  
37 this chapter (~~( $\oplus$ )~~), chapter 70A.25 or 70A.--- (the new chapter  
38 created in section 29 of this act) RCW, RCW 70A.45.080, or any  
39 ordinance, resolution, or regulation in force pursuant thereto is



1 guilty of a gross misdemeanor and upon conviction thereof shall be  
2 punished by a fine of not more than ten thousand dollars, or by  
3 imprisonment in the county jail for up to three hundred sixty-four  
4 days, or by both for each separate violation.

5 (2) Any person who negligently releases into the ambient air any  
6 substance listed by the department of ecology as a hazardous air  
7 pollutant, other than in compliance with the terms of an applicable  
8 permit or emission limit, and who at the time negligently places  
9 another person in imminent danger of death or substantial bodily harm  
10 is guilty of a gross misdemeanor and shall, upon conviction, be  
11 punished by a fine of not more than ten thousand dollars, or by  
12 imprisonment for up to three hundred sixty-four days, or both.

13 (3) Any person who knowingly releases into the ambient air any  
14 substance listed by the department of ecology as a hazardous air  
15 pollutant, other than in compliance with the terms of an applicable  
16 permit or emission limit, and who knows at the time that he or she  
17 thereby places another person in imminent danger of death or  
18 substantial bodily harm, is guilty of a class C felony and shall,  
19 upon conviction, be punished by a fine of not less than fifty  
20 thousand dollars, or by imprisonment for not more than five years, or  
21 both.

22 (4) Any person who knowingly fails to disclose a potential  
23 conflict of interest under RCW 70A.15.2000 is guilty of a gross  
24 misdemeanor, and upon conviction thereof shall be punished by a fine  
25 of not more than five thousand dollars.

26 **Sec. 25.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended  
27 to read as follows:

28 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
29 43.05.150, and in addition to or as an alternate to any other penalty  
30 provided by law, any person who violates any of the provisions of  
31 this chapter, chapter 70A.25 (~~(e)~~), 70A.450, or 70A.--- (the new  
32 chapter created in section 29 of this act) RCW, RCW 70A.45.080, or  
33 any of the rules in force under such chapters or section may incur a  
34 civil penalty in an amount not to exceed ten thousand dollars per day  
35 for each violation. Each such violation shall be a separate and  
36 distinct offense, and in case of a continuing violation, each day's  
37 continuance shall be a separate and distinct violation.

38 (b) Any person who fails to take action as specified by an order  
39 issued pursuant to this chapter shall be liable for a civil penalty

1 of not more than ten thousand dollars for each day of continued  
2 noncompliance.

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

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

12 (3) Each act of commission or omission which procures, aids or  
13 abets in the violation shall be considered a violation under the  
14 provisions of this section and subject to the same penalty. The  
15 penalties provided in this section shall be imposed pursuant to RCW  
16 43.21B.300.

17 (4) All penalties recovered under this section by the department  
18 shall be paid into the state treasury and credited to the air  
19 pollution control account established in RCW 70A.15.1010 or, if  
20 recovered by the authority, shall be paid into the treasury of the  
21 authority and credited to its funds. If a prior penalty for the same  
22 violation has been paid to a local authority, the penalty imposed by  
23 the department under subsection (1) of this section shall be reduced  
24 by the amount of the payment.

25 (5) To secure the penalty incurred under this section, the state  
26 or the authority shall have a lien on any vessel used or operated in  
27 violation of this chapter which shall be enforced as provided in RCW  
28 60.36.050.

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

33 (7) In addition to other penalties provided by this chapter,  
34 persons knowingly under-reporting emissions or other information used  
35 to set fees, or persons required to pay emission or permit fees who  
36 are more than ninety days late with such payments may be subject to a  
37 penalty equal to three times the amount of the original fee owed.

38 (8) The department shall develop rules for excusing excess  
39 emissions from enforcement action if such excess emissions are  
40 unavoidable. The rules shall specify the criteria and procedures for

1 the department and local air authorities to determine whether a  
2 period of excess emissions is excusable in accordance with the state  
3 implementation plan.

4 **Sec. 26.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to  
5 read as follows:

6 (1) Special fuel licensees under chapter 82.38 RCW, as determined  
7 by the department of licensing, must provide evidence to the  
8 department of licensing that at least two percent of the total annual  
9 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,  
10 following the earlier of: (a) November 30, 2008; or (b) when a  
11 determination is made by the director, published in the Washington  
12 State Register, that feedstock grown in Washington state can satisfy  
13 a two-percent requirement.

14 (2) Special fuel licensees under chapter 82.38 RCW, as determined  
15 by the department of licensing, must provide evidence to the  
16 department of licensing that at least five percent of total annual  
17 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,  
18 when the director determines, and publishes this determination in the  
19 Washington State Register, that both in-state oil seed crushing  
20 capacity and feedstock grown in Washington state can satisfy a  
21 three-percent requirement.

22 (3) The requirements of subsections (1) and (2) of this section  
23 may take effect no sooner than one hundred eighty days after the  
24 determination has been published in the Washington State Register.

25 (4) The director and the director of licensing must each adopt  
26 rules, in coordination with each other, for enforcing and carrying  
27 out the purposes of this section.

28 (5) To the extent that the requirements of this section conflict  
29 with the requirements of chapter 70A.--- (the new chapter created in  
30 section 29 of this act) RCW, the requirements of chapter 70A.--- (the  
31 new chapter created in section 29 of this act) RCW prevail.

32 **Sec. 27.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to  
33 read as follows:

34 (1) By December 1, 2008, motor vehicle fuel licensees under  
35 chapter 82.38 RCW, as determined by the department of licensing, must  
36 provide evidence to the department of licensing that at least two  
37 percent of total gasoline sold in Washington, measured on a quarterly  
38 basis, is denatured ethanol.

1 (2) If the director of ecology determines that ethanol content  
2 greater than two percent of the total gasoline sold in Washington  
3 will not jeopardize continued attainment of the federal clean air  
4 act's national ambient air quality standard for ozone pollution in  
5 Washington and the director of agriculture determines and publishes  
6 this determination in the Washington State Register that sufficient  
7 raw materials are available within Washington to support economical  
8 production of ethanol at higher levels, the director of agriculture  
9 may require by rule that licensees provide evidence to the department  
10 of licensing that denatured ethanol comprises between two percent and  
11 at least ten percent of total gasoline sold in Washington, measured  
12 on a quarterly basis.

13 (3) The requirements of subsections (1) and (2) of this section  
14 may take effect no sooner than one hundred eighty days after the  
15 determination has been published in the Washington State Register.

16 (4) The director and the director of licensing must each adopt  
17 rules, in coordination with each other, for enforcing and carrying  
18 out the purposes of this section.

19 (5) Nothing in this section is intended to prohibit the  
20 production, sale, or use of motor fuel for use in federally  
21 designated flexibly fueled vehicles capable of using E85 motor fuel.  
22 Nothing in this section is intended to limit the use of high octane  
23 gasoline not blended with ethanol for use in aircraft.

24 (6) To the extent that the requirements of this section conflict  
25 with the requirements of chapter 70A.--- (the new chapter created in  
26 section 29 of this act) RCW, the requirements of chapter 70A.--- (the  
27 new chapter created in section 29 of this act) RCW prevail.

28 NEW SECTION. Sec. 28. A new section is added to chapter 43.21A  
29 RCW to read as follows:

30 (1) The department, in coordination with the department of  
31 commerce and other agencies as appropriate, must develop  
32 recommendations for potential improvements to the permitting  
33 processes for industrial projects and facilities in Washington that  
34 would contribute to achieving greenhouse gas emissions limits  
35 established under RCW 70A.45.020 while maintaining standards for the  
36 protection of the environment and the preservation of tribal  
37 consultation and treaty rights. The department must provide increased  
38 clarity on areas in the state that may be suitable for siting  
39 projects that have a lower potential for negative environmental

1 impacts, especially to highly impacted communities as defined in RCW  
2 19.405.020 and identify strategies for minimizing and mitigating  
3 negative environmental impacts where possible. The department must  
4 provide clear guidance and direction intended to improve project  
5 proposals, recommend policy and administrative improvements necessary  
6 to improve the permitting process, and recommend any additional  
7 studies needed. The department shall convene businesses, local  
8 governments, community organizations, and environmental and labor  
9 stakeholders, and consult with tribes.

10 (2) The department and the department of commerce shall produce  
11 and submit to the governor and the legislature an interim progress  
12 report with initial policy proposal recommendations for the 2022  
13 legislative session by December 1, 2021, and a final report including  
14 findings, recommendations, and further policy proposals by December  
15 1, 2022.

16 (3) This section expires June 30, 2023.

17 NEW SECTION. **Sec. 29.** Sections 1 through 15 of this act  
18 constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 30.** If specific funding for the purposes of  
20 this act, referencing this act by bill or chapter number, is not  
21 provided by June 30, 2021, in the omnibus appropriations act, this  
22 act is null and void.

23 NEW SECTION. **Sec. 31.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected. In the event that there is  
27 litigation on the provisions of section 3(6) of this act or any other  
28 provision of this act, it is the intent of the legislature that the  
29 remainder of the act shall continue to be enforced and if such  
30 provisions are held invalid, the remainder of the act shall not be  
31 affected."

**E3SHB 1091** - CONF REPT  
By Conference Committee

1        On page 1, line 2 of the title, after "fuel;" strike the  
2 remainder of the title and insert "amending RCW 80.50.060, 46.17.365,  
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,  
4 19.112.110, and 19.112.120; reenacting and amending RCW 80.50.020;  
5 adding a section to chapter 82.04 RCW; adding a new section to  
6 chapter 43.21A RCW; adding a new chapter to Title 70A RCW; creating  
7 new sections; prescribing penalties; and providing expiration dates."

--- END ---